THE TRYAL OF PHILIP STANDSFIELD SON TO SIR JAMES STANDSFIELD OF NEW-MILNS,

For the Murder of his Father, and other Crimes Libel'd against him.

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Curia juſticiaria *S. D. N.* Regis, tenta in prætorio *Burgi* de *Edinburgh*, Sexto die Menſis *Februarii* 1688. per Nobilem & Potentem Comitem *Georgium* Comitem de *Linlithgow*, Dominum *Livingſtoun*, &c. Juſticiarium Generalem totius Regni *Scotiæ*, & honorabiles viros Dominos *Ioannem Lockhart* de *Caſtlehill*, *Davidem Balfour* de *Forret*, *Rogerum Hodge* de *Harcarſe*, & *Ioannem Murray* de *Drumcairn*, Commiſſionarios Juſticiariæ dicti, S. *D. N.* Regis.

Curia Legitime affirmata.

INTRAN

Philip Standsfield *eldeſt lawful Son to Umquhile Sir* James Standsfield *of* New-milns *Priſoner within the Tolbooth of* Edinburgh.

INdyted and Accuſed at the Inſtance of Sir *John Dalrymple* younger of *Stair*, His *Majeſties* Advocat for His Highneſs Intereſt: That where notwithſtanding by the Law of God, the common Law, Law of Nations, Laws and Acts of Parliament of this Kingdom, and conſtant Practice thereof, the expreſſing of malitious and ſeditious Words to the Diſdain of His Sacred *Majeſties* Perſon, and contempt of His Royal Government, ſuch as Drinking or Wiſhing Confuſion to His *Majeſtie*, is high Treaſon, particularly by the *2d. Act 2d. Seſſ. Par. 1ſt.* K. *Ch. 2d.* of ever Glorious Memory: The Plotting, Contriving or Intending Death or Deſtruction to the King's *Majeſtie*, or any bodily harm, tending to Death or Deſtruction, or who ſhall by Writing, Printing, or other malitious and adviſed Speaking, expreſs and declare ſuch their Treaſonable Intentions, after ſuch perſons, being legally Convicted thereof, they ſhall be Deemed, Declared and Adjudg'd Traitors: And the Curſing, Beating, Invading, or Aſſaſſinating of a Parent by a Child, above the age of ſixteen years, who is not Mad and Furious, is puniſhable by Death, and Confiſcation of Moveables: And of all other Murders, Paricide is the moſt atrocious and unnatural, And Murder under Truſt is puniſhable as I reaſon with forfaulture of Life, Land and Goods, and particularly by the 20 *Act*, *1ſt. Seſſ. 2d. Par.* K. *Ch. 2d* The King's *Majeſty* and Eſtates of Parliament Conſidering how great and atrocious a Crime it is for Children to beat, or curſe their Parents, and how the Law of God hath pronounced juſt Sentence of Death againſt ſuch as ſhall either of theſe wayes injure either of their Parents; Therefore the King and Eſtates of Parliament did Statute and Ordain, *That whatſoever Son or Daughter, above the age of ſixteen years, not being Diſtracted, ſhall beat, or curſe either their Father, or*

their Mother; ſhall be put to death without mercy. And ſicklike, by the 51 *Act*, 11 *Par.* K. *Fa.* 6. It is Statuted and Ordained, *That the Murder or Slaughter of whatſomever of the Leidges where the party ſlain is under the Truſt, Credit, Aſſurance, and Power of the Slayer, all ſuch Murder or Slaughter to be committed in time coming, the ſame being lawfully Tryed, and the perſon dilated found guilty by an Aſſiſe thereof, ſhall be Treaſon, and the perſon found culpable ſhall Forfault Life, Land and Goods*; as in the ſaids Laws and Acts of Parliament at more length is contained. Nevertheleſs it is of Verity, that the ſaid *Philip Standsfield* ſhaking off all fear of God, the Bonds and Tyes of Nature, and Chriſtianity, regard and obedience to the ſaids Laws and Acts of Parliament, did dare and preſume to commit the ſaids horrid and deteſtable Crimes, in ſwa far as, upon the firſt, ſecond, third, or one or other of the Days of the Moneths of *June*, *July*, *Auguſt*, or *September* laſt by-paſt, or one or other of them, he did, within the Houſe and Kitchin of *Newmilns*, call for Ale to Drink ſome Healths, and in the preſence of *John Robiſon*, then his Fathers Servant, *Agnes Bruce* likewiſe his Fathers Servitrix, and ſeveral others, he did, as a moſt villanous and avowed Traitor, preſume and dare to begin a Health to the Confuſion of His Sacred *Majeſty*, his native Soveraign, and did Drink off the ſame, and cauſed others in His company do the like. And ſicklike Sir *Iames Standsfield* of *Newmilns* his Father having cauſed educat and bring him up decentlie, and in plenty conform to his rank and qualitie, and having left no means uneſſayed for his Literature, Education, and Subſiſtence; Yet he being a profligat and debauched Perſon did commit, and was acceſſorie to ſeveral notorious Villanies, for which both at home and abroad he was apprehended and detained Priſoner as in the *Marſhall Sea-Priſon* in *Southwark*, in the publick priſons of *Antwerp* and *Orleance*, and ſeveral other places, and tho his Father out of his natural compaſſion to him, did cauſe releaſe him out of theſe priſons, in which he was ſo juſtly confined; He no ſooner had his Liberty than he of new invented and went about his villanous practices and debauches: And his Father at laſt perceiving that nothing could reclaim him from theſe and the like proceedings, having ſignified his inclinations to diſheriſh him, and in order thereto having diſponed his Eſtate in Favours of *John Standsfield* his ſecond Son: The ſaid *Philip* did thereupon conceive, Harbour and Intertain ane Helliſh Malice and Prejudice againſt the ſaid Sir *Iames Standsfield* his Father, and moſt barbarouſly did declare, threaten and vow at ſeveral times that he would cut his Throat. And particularly upon the firſt, ſecond, third, or remanent dayes of the moneths of the year, 1680. within the houſe of *Iames Smith* in *Nungate* of *Haddingtoun*: And upon the firſt, ſecond or third, or one or other of the days of the Moneths of *January*, *February*, *March*, and remnant moneths of the year, 1687. within the houſe of *Iames Baikbie* Fermorer in *New-milns*, and within his Fathers own houſe of *New-milnes*, and in the houſe of *William Scot* there; And upon the firſt, ſecond, third, or one or other of the dayes of the moneths of *January*, *February*, *March*, and remanent moneths of the year of God, 1683, 1684. and 1685 years, when he was both in *Bruſſils* and *Breda*, and ſeveral other places, both in *Holland* and *Flanders*, and in priſons within which he was detained in the city of *London* and *Southwark*, or upon one or other of the days, of one or other

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of the Moneths of the saids years, or either of them most wickedly, unnaturally, and bitterly, rail upon, abuse and curse, the said Sir *James Standsfield* his natural and kindly Parent. And being transported with rage and malice, he did, contrary to the light and tyes of nature, not once but often, and frequently curse his father, by bidding, and praying the *Devil* to take him, and the devil rive him, God damn him, and swear, if he had a sword he would run it through him, and if ever he came to *Scotland*, he would be avenged upon him. And particularly upon the day of *November* last, which was the last time his Father went to *Edinburgh*, he did most impiously and unnaturally Imprecat God let him never return, and God let him never see his face. And frequently when he saw his fathers diet taken to him, he used to say, God grant he may choak upon it; and at other occasions, when his father refused to eat, he was in use to say, God let never more be in his stomach than was in it then. And upon the first, second, third, or one or other of the dayes of the moneths of *September*, *October*, *or November*, last by past, or one or other of them. His mother being recovered out of a swond, and having said to him, *Philip*, ye will shortly want your mother, which will be a gentle visitation to Sir *James* your father. To which he did answer: By my soul my father shall be dead before you, mother; and about eight dayes after, he upon the like occasion did renew the same words: As also he was in use to declare, that though at present he had neither cloaths nor money, yet shortly (and no body did think how soon) he would be Laird of all, and then would use other persons, as they did him now: And at other times declared, that before Christmas he would be Laird of all; which curses and Imprecations, he the said *Philip Standsfield*, by a continual habit, used, and repeited these several years by past: and lately some few moneths, or weeks, before his Fathers murder. And not satisfied therewith, the said *Philip* did proceed to that degree of unnatural cruelty, and malicious spite, and enmity against his father, that upon the first, second, third, or one or other of the days of the moneths of *January*, *February*, *March*, and remanent moneths of the years of God, 1680, 1681, 1682, 1683 & 1684 years. or one, or other of the days, of one or other of the moneths, of one or other of the saids years, he did attempt to assassinat, and offered violence to his fathers person, and did chase and pursue him upon the King's high way at *Lothian-burn*, and did fire Pistols upon his father. And likewayes upon one or other of the dayes of one or other of the moneths, of one or other of the years of God above-specified, he did attempt to assassinat his father for his life, at *Culterallers*, and did fire Pistols upon him; And his father being afraid of his life, and under the apprehension of Violence, from the cruel and bloody hands of the said *Philip*, his unnatural son, he did to several persons, both of quality, and intire reputation, declare that the said *Philip* his son, had both attempted to assassinat, and offered violence to his person, and that he was devising, and contriving his death. And the said Sir *James Standsfield* his father having upon the day of *November* last, gone from the citie of *Edinburgh*, to his own house of *New-milns* and about ten a clock at night, or thereby having gone to his own Chamber, in order to his rest, & being alone in the roum, under the credit, trust, and assurance of the said *Philip* his son, and his own servants within his own family, the said *Philip* did

conſult, and adviſe, and correſpond with ſome other perſons, within and about the Houſe for the time, to aſſaſſinat and cruelly murder his ſaid Father, and particularly with *George Thomſon* in *Newmilns*, and *Helen Dickſon* his Spouſe, and *Janet Johnſtoun* Spouſe to *John Nicols* there, in the houſe of the ſaid *George Thomſon* many times, particularly the *Saturdays* night, immediatly preceeding the murder, where he curſed his Father, and ſaid he ſhould ſhortly make an end of him, and be maſter of all: And accordingly he and they did murder and ſtrangle him in his bed-chamber, and in the dead time of the night, did carry and tranſport him from the ſaid Roum, to the water, near by the houſe, and laid his Body down upon the water-ſide, and tyed a ſtone about his neck, to make him ſink in the water, and before he was thrown therein, he went back with his accomplices to a little kiln near by, and conſulted and adviſed, whether it was more fit to throw him in the water, with the ſtone about his neck, to make him ſink, or to take away the ſtone, leaſt when he ſhould be found, it might thereby appear that the ſtone had been tyed by ſome other hand than his own, and at laſt reſolved to take away the ſtone, and throw his Body in the water, which they returning, did accordingly, and ſome perſons being accidentally lying in the houſe at the time, they did hear a noiſe of many tongues and voices, to their great terror and amazment; and the next morning very early, ſome of the ſervants in the houſe, having come to the Roum, where his ſaid Father did ly, and having miſſed him out of the Roum, gave notice thereof, to ſome others of the ſervants; He declared that he had been ſeeking him about the water pools, and a noiſe and cry having ariſen, ſearch and inquiry was made for his ſaid Father, (and by him ſeeminglie amongſt the reſt) and after ſome time his Body was found in the water hard by his own houſe, and being dead, and his neck broken before he was thrown in the Water, his Body did neither ſink to the ground, nor receive water, (as all drowned Bodies are in uſe to do) and he knowing where his Fathers Body had been put, went on the Sabbath morning directly to the place where his Body was in the water, and ſtood a conſiderable ſpace upon the water ſide, directly oppoſite to the Body, with his eyes fixed on the ſame, before his Body was found or knowen to any others than the Murtherers; and when *Iohn Topping* (a ſtranger) paſſing that way, and ignorant of the whole matter, or that Sir *James* was amiſſing, called to him, and asked, who that was in the water? He made no anſwer, but went away from that place ſtraight to *Newmilns*, and gave no intimation to him, or any other perſon what he had ſeen in the water, but appeared ſurpriſed when his body was found there, by other perſons, and his Fathers Body being taken out of the water, the ſame was by his order, carryed to a dark out-houſe, and though he was deſired by the Friends and Servants preſent to ſuffer his Fathers dead Body to be carryed to his own houſe and kept therein, and not to be buried till his Friends in *Edinburgh*, and elſe where, and Phyſicians in *Haddingtoun* or near by, might ſee the ſame: Yet he refuſed ſo to do, and cauſed bury the dead body of his Father privatly, and in haſte: And the noiſe having ſpread abroad, that his Father had been barbarouſly murdered by him and his accomplices, order was given by theſe in Authority, to cauſe

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open the grave that Phyſicians and expert Chyrurgians might inſpect his Body, and make Report anent the Truth of the Matter: And accordingly by the Report of the ſaids Chirurgians who inſpected the Body, it did appear that his ſaid Father was cruelly ſtrangled and murdered, and not drowned, and that he had been caſt in the water of purpoſe to conceal the ſame: And when his Fathers dead body was ſighted and inſpected by Chirurgians, and the clear and evident ſigns of the murder had appeared, the Body was ſewed up, and moſt carefully cleaned, and his neareſt Relations and Friends were deſired to lift up his Body to the Coffin: And accordingly *Iames Row* Merchand (who was in *Edinburgh* the time of the Murder) having lifted the Left ſide of Sir *Iames* his Head and Shoulder, and the ſaid *Philip* the Right ſide, his Fathers Body though carefully cleaned, as ſaid is, ſo as the leaſt Blood was not on it, did (according to God's uſual Method of diſcovering Murders) blood afreſh upon him, and defiled all his hands, which ſtruck him with ſuch a terrour that he immediately let his Fathers Head and Body fall with Violence, and fled from the Body, and in conſternation and confuſion cryed, Lord, have mercy upon me, and bowed himſelf down over a ſeat in the Church (where the Corps were inſpected) wiping his Fathers innocent blood off his own murdering Hands upon his Cloathes. By all which it is manifeſt, that he did moſt traitorouſly expreſs his hatred and malice to his *Majeſties* Sacred Perſon, by wiſhing and drinking to his confuſion, and cauſing others do the ſame. And likewiſe, that he did not only unnaturally curſe, invade, attempt to aſſaſſinate or beat his ſaid Father, but under truſt and aſſurance, barbarouſly and treaſonably did ſtrangle, kill, and murder him in manner forſaid, and is actor, art and part of the forſaids Crimes, or one or other of them, which being found by an Aſſyſe, he ought to be puniſhed for the treaſonable Crimes above-ſpecified, with forefaulture of Life, Land and Goods, and for the other Crimes abovementioned, Capitally, and with the pains of Death and Confiſcation of Moveables, to the Terror and Example of others to commit the like hereafter.

Purſuers.	*Procurators in Defence.*
Sir *John Dalrymple* younger of *Stair*, His *Majeſties* Advocat.	Sir *David Thoirs*.
Sir *George Mckenzie* Advocat.	Sir *Patrick Hume*.
	Mr. *William Moniepenny*.
	Mr. *William Dundaſs*.

The Pannal's Procurators produced two Warrands of Privy Council, Commanding them to compeir and plead the Pannals Defence.

SIr *Patrick Hume* for the Pannal (always denying the Inditement, and whole members and qualifications thereof) alleadges, That as to the firſt part of the Inditement, in relation to the drinking an Health to the Confuſion of his Sacred *Majeſty*, as it is moſt calumnious, ſo it is not to be ſuppoſed, that any man in his right wits would have been guilty of ſuch a thing; And it is poſitively offered to be proven, that at or about the time lybel'd, and ſeveral times before and after, the Defender did moſt heartily and chearfully in ſeveral Companies drink the King's Health, and upon all occaſions he was ready to teſtifie his Loyalty to the King, and particularly the time of the Invaſion by the late Duke of *Monmouth* in *England*, where he did enter himſelf voluntarly a Souldier in the Earl of *Dumbarton's* Regiment, and continued in the King's Army till the Rebels were defeat, and the voluntiers diſmiſſed.

As to the ſecond part of the Libel, in relation to the pannal, his alledged committing and being guilty of, and acceſſory to many notour Crimes abroad, and being detained Priſoner in *London*, *Antwerp*, *Orleance*, &c. and that he vented and entertained malice againſt his Father, and that he declared many times that he would cut his Throat, and that he did rail againſt and curſe his Father, by many Imprecations.

It is anſwered, *primo*, That it is abſolutely deny'd, that the Pannal was guilty of, or acceſſory to any notorious Crime abroad, or put in Priſon upon that account, nor is there ſo much as any Crime condeſcended upon.

2°. The Defender could not conceive any prejudice againſt his Father, upon the account of Diſponing his Eſtate to his ſecond Son; for he knew nothing thereof till after his Fathers deceaſe, that one *Alexander Ainſlie* told him that his Father made ſuch a Diſpoſition.

3°. As to the pretended expreſſions, that the Defender ſhould have had of Railing, Curſing and uſing Imprecations againſt his Father, in ſo far as the ſamen are lybel'd to have been done abroad, in *England*, *Holland*, or other places, he cannot be lyable to the puniſhment inflicted by the Law of this Kingdom, becauſe when a party commits a Crime in another Nation, he is only to be puniſhed according to the Law of the place where the Crime was committed, and not according to the Law of the Nation where he is a ſubject, or has his dwelling: As is clear by the common Law, Authentick *Cod: ubi de criminibus agi oportet*, *Qua in provincia quis delinquit*, *aut in qua pecuniarum aut criminum reus ſit*, *ſive de terra*, *ſive de terminis*, *ſive de poſſeſſione*, *ſive de proprietate*, *ſive de hypotheca*

hypotheca, aut de alia qualibet occasione, vel de qualibet re fuerit reus illic jure subjaceat, quod jus est perpetuum. In that Nation where any Person commits a Crime, or is lyable to answer upon any account whatsomever he is to be judged by the Law of that place, which is established as a perpetual Law; and *Matthæus de Criminibus* in his title, *de pœnis* is expresse of the same opinion.

4°. As to all those pretended expressions of railing, cursing and threatning lybel'd that were before *March* 1685. The Defender is secured by the Act of Indemnity, by which all Crimes are indemnified, preceeding that time against the Government and Lawes.

5°. As to any pretended Expressions of railing and cursing since that time, they being but injuries alledged done to the Father, he might and did remit the samen, in so far he did not challenge and pursue the same in his own time, and this is clear from the common Law, *Carpzov. part. 2. Quæst. 65. Actio autem injuriarum nec active nec passive in Hæredes transit, etiam si mortuus illatas injurias ignoraverit. Instit. lib. 4. tit. 12. part. 1. de perpetuis temporalibus action. leg. 10. par. 2. ff. si quis cautionibus in judicio sisten.* And *leg. 13. ff. de injuriis, injuriarum actio neque hæredi neque in hæredem datur*; As also it is a principle in Law, that *dissimulatione tollitur injuria*; and if it could be made appear, that the Pannal had any such Expressions, the Father did dissimulat and pass from the same, in so far as by a Letter dated in *June* last, written by the Father to the pannal, he orders him to take in his Chamberlain Accompts of the Rents of his Lands, and of any money he had received from the Tennents, or for the Corns sold, and that he expects he will do the same exactly, and recommends to him, to be careful of all his Affairs, and subscribes himself to be his Loving Father; By which it is evident that all former differences (if any were) betwixt them were then taken away.

As to the third part of the Indytement, in relation to the several Acts and Qualifications insisted upon: To inferr that the Defender had accession to his Fathers death. It is answered (*primo*) That the Indytement in so far as it is founded upon the 51. *Act Par:* 11. *K. Ja 6* in relation to the murder under trust, which is declared to be punishable as Treason, Is not relevant: Because the Father cannot in Law be said to be under trust and assurance of the son, and that Act of Parliament takes only place in Cases where a man is invited to his neighbours House, or of an Traveller being in an Inn, and that he be murdered under that trust, & the same Act of Parliament being founded on in the case of *Swinton*, who killed his Wife, in the year 1666. the Inditement was restricted to simple Slaughter. And in the case of Master *James Oliphant* in the year 1665, The Lords of the Session found, that a Sons killing his Mother was not Murder under trust and so he was not punishable by that Act of Parliament, as guilty of the Crime of Treason.

2° The Acts and qualifications condescended on to infer the Defenders Accession to his Fathers death, are but very remote and uncertain, for as to that expression, That the defender is alledged to have threatned his Fathers death, It is the opinion of all Lawers, who have written upon the subject, that that is but a very remot Presumption. And as *Carpzovius* expresses it, *Part: 3. Quæst: 121. Num: 51. quod est indicium admodum periculosum, quippe cum homines sæpe nil minus faciant quam quod*

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minas æquantur et ira tundia agitatus minas de crimine perpetrando sæpe jactet ipso tamen animo fervore paulo post discusso cohibeat manus et abstineat a facinore illo quod forsan ab alio postea committitur. And *Paris de puteo* gives an instance in his *Tractat de syndicatu* upon the word *Tortura*; and *Boverius*, That a Woman seeing a Person going by her Window, against whom she had a Prejudice, and that another having a hatred against her, and hearing that she had threatned to cut off that Persons Leggs, the party that did hear the Woman use the threatning did the thing, upon which the Woman that did threaten, being challenged, and put to the Torure, did confess; Yet thereafter it was found, that she was altogether innocent, and that another had done it.

3°. As to the pretended Acts of the Defenders alledged Pursuing, and Invading his Father, and fireing Pistols at him, at *Lothian-burn and Culter-allers, in Annis* 1683 and 1684. As it is most groundless, so if need were it could be made appear by the Persons who were in company with him at that time, That the Defender, and his Father, were then in intire freindship all alongst the journey, and he was so far from making any such attempt, That it can be made appear that the Defender did behave himself towards his Father, with all the submission and respect that became a Son to have to his Father; But as to these and all other Acts preceeding *March* 1685, the Defender is secured by the Act of Indemnity, and as the Defender cannot be pursued for any Crime preceeding that time; neither in Judgement nor out with the same, they in effect being no Crimes, being taken away by the Act of Indemnity, they cannot be so much as made use of as qualifications or aggravations to infer another Crime posterior thereto.

4° As to that pretended qualification, that when the Defender did touch his Fathers dead body after it was taken out of the grave, the Corps did bleed.

It is answered, that this is but a superstitious observation without any ground either in Law or Reason. *And Carpzovius* relates *part.* 3. *quest.* 122. *Num* 31. That several Persons upon that ground had been unjustly challenged, and that he in his own experience, had seen a dead body bleed in presence of a person who was not guilty, as also that he has seen the body not bleed in presence of the Person that was guilty. And *Mattheus de Criminibus*, is of the same opinion, *Tit*: 16. *de Quæstionibus Num*: 12, de *Sanguine porro de Cadavere profluente quod dicitur id de plurimis experimentis comprobetur tamen cum experimenta falsa sint ratio vero idonea nulla reddi possit, non putaverim indicium ad torturam sufficiens esse; non enim sapientis Judicis est incerto experimento credere quod certa ratione dirimendum est.* And the truth is, the occasion of the dead bodies bleeding, was that the Chirurgions that came out to visit the body, did make an Incision about the neck, which might be the occasion of the bleeding, and also the very moving of the dead body when it was taken out of the grave, and out of the Coffin might occasion the bleeding; especially seing the body did not bleed for some time after, which certainly was made by the motion, and by the incision. As also as a further evidence, that it could not be the Defenders touching the body, the Chirurgions did likeways touch the Body as well as he, and several others present, so that the bleeding could no more be ascribed to his touching, than the touching of the other persons present.

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5°. As to the other Articles Lybel'd, Relating to the pretended Murder, They are but meer ſtories, and the truth is, and it is offered to be proven, That the Defender having gone to his Chamber and Bed the night before his Father's death, He did not ſtir out of his Bed, nor out of the Roum, till the next morning, that *John Robertſon* his Fathers Servant came to his Chamber, where he was in Bed, and told him that he had been in his Maſter's roum, and that he could not find him; Upon which the Defender immediatly aroſe, and put on his cloaths, and went out to ſee where his Father was. And ſhortly after word being brought him, by ſome Perſons in the Town, that they did ſee his Father's Body lying in the Water, and it being generally concluded by all, that he had thrown himſelf in the Water, and the body being taken out, and laid in a Low-Roum; It was thought fit by all the neighbours about, that he ſhould be buried the next day.

6°. The particulars Lybel'd, to infer the Defenders acceſſion to his Fathers Death, being but remot and uncertain conjectures, It is a certain principle in Law, that *ex præſumptionibus et conjecturis nemo criminaliter condemnari poteſt*, eſpecially as to a Capital puniſhment: As is clear from the common Law, *Leg: 5. digeſt: de pœnis, ſed nec de ſupplicationibus debere aliquem damnare, ſatius enim eſt Impunitum relinqui facinus nocentis quam Innocentem damnare.* And which is the opinion of all Lawers, writing upon the Subject; As *Bartol:* upon the foreſaid Law, and *Farin: part. 3. oper: Crim. Quæſt. 86.* and the Lawers by him there cited. And *Muſcard de prob: Concluſ: 223.* layes it down as a certain concluſion *quod Argumenta quantumcunque urgentiſſima etiamſi eſſent talia quæ mentem indicantis adeo coactarent quod aliud credere non poſſit, non tamen ſufficerent ad condemnationem pœnæ corporalis ſed duntaxat pecuniariæ.*

7°. The preſumptions and qualifications Lybel'd, cannot be ſuſtained even to infer an Arbitrary puniſhment: Becauſe they may and are taken off by other preſumptions, That either the Father was not murdered, but that in a Frainzie or melancholy fit he had thrown himſelf in the Water: Or at leaſt if he was Murdered, that the Defender had no acceſſion thereto, and the preſumptions condeſcended upon in behalf of the Defender, to eleid the preſumptions contained in the Inditement, *are theſe.* That it is notourlie known, That his Father was ſubject to melancholy fits, and that in the year 1679, the time of Bothwell-bridge, It is offered to be proven, that he was in a fit of diſtraction; And at another time in his houſe at the *Netherbow*, he was going to throw himſelf out over the Window, If one *Thomas Lendall* had not come in at the time & pulled him back by the Leggs, when his body was half out at the Window: And ſome few dayes before, he went out of *Edinburgh* laſt, he came to *George Stirling Chirurgion*, and deſired him to draw blood of him, for a diſtemper in his head, which he refuſed, unleſs he had advice from a *Phyſician*. As alſo a day or two before he went out of the Town, he was ſeen reading upon the Book of *Burtouns Melancholy*. And that day when he went out of the Town in company of Mr. *Bell* the Miniſter, & *Aiton* Merchant in *Haddingtoun*, they obſerved him to be melancholy, diſordered and more troubled than ordinary; Or if it could be made appear, that the Father was murdered, Yet it cannot be preſumed that the Defender had any acceſſion thereto, or that he would

have commited ſuch an Act againſt the very ties and light of nature: As alſo it appears by the foreſaid letter, written to the Defender by his Father, that they were in intire Friendſhip; As alſo when the ſurmiſe went abroad, that his Father had been murdered, if he had been conſcious to himſelf that he had any acceſſion thereto, he would have certainly fled the Countrey, and gone away: But he was ſo far from that, that upon the firſt rumor of it he came preſently in to *Edinburgh*, and ſeveral dayes thereafter, it being told him, that he was ſuſpected to have acceſſion to his Fathers Death, he came voluntarly and entered himſelf in Priſon, that he might undergo the ſtricteſt and ſevereſt Tryal. Which alone is ſufficient, if it were no more to take off all the preſumptions Lybel'd, and to convince the World of the Defenders innocence; And it being a Principle in Law, That *una præſumptio tollit aliam*, The preſumptions adduced for the Defender ought to be preponderat, *Maſcard: Conclu*ſ: 1205. is poſitive, That *preſumptiones quæſtant pro reis prævalent*. As alſo that *Præſumptio affectionis naturalis prævalet contrariis præſumptionibus*. So that upon both theſe conſiderations, the preſumptions alledged for the Defender ought to be ſuſtained, to take away the preſumptions Lybel'd, and to free him from the Crime.

His Majeſties Advocat anſwers: That the lybel conſiſts of three Articles (*primo*) Treaſon by the Pannal's drinking the King's confuſion, and by the Murder under truſt. 2°. The curſing of a Parent. 3°. The Qualifications inferring the Pannal's acceſſion to the murder of his Father.

As to the firſt, it cannot be denyed, but that the drinking or wiſhing Confuſion to his *Majeſty*, is the higheſt Act of contempt, malice, and diſdain to his Royal perſon; and as the Relevancy of this Article is not expreſly contraverted, ſo the atrocity of the Act, and the forcing others to do the ſame upon the common Grounds of Law, does clearly infer Treaſon, and it cannot be expected, that ſuch extravagant words ſhould either be expreſt, or particularly provided againſt by any Law in expreſs terms; But the nature of the words in expreſs terms of our Law diſcharging all Speeches to the diſdain of His *Majeſty*, the contempt of His Authority, do clearly and naturally comprehend the words libeled, and by the common Law, *ad leg: jul. Maj. crimen læſæ Majeſtatis ad exemplum legis ſcriptæ eſt vindicandum*.

And whereas it is pretended, that theſe words were inadvertantly ſaid, and that it appears by the tract of the Pannal's life, and his readineſſe to engage in His *Majeſties* ſervice, that the words could not be deliberat and malitious. It is Replyed, That it is offered to be proven, that the drinking Confuſion to the King was openly and plainly propoſed; And that the Pannal did deliberately ſend out for Ale to drink certain healths, & that this health to the King's confuſion was the firſt or ſecond, & that it was no lapſe or miſtake in the expreſſion; But that he forced others to pledge & drink that ſame Health: And the malice and diſloyalty is evident by the healths ſubſequent, *viz.* Antichriſts, &c. and it is not at all relevant, (after the reiterat & deliberat expreſſing of theſe words) that he had retracted or drank the Kings health; for a crime once committed, is not retracted or taken off by ſuch inconſiſtent & unconſequential Speeches; But to ſhew the ſenſe the Pannal had of the Importance of his own words, the Pannal be-

being informed, that ſome of the perſons preſent had divulged his having drunk the King's Confuſion, the Pannal did conjure them to ſecrecie, and did menace the Witneſſes with a great kane, that he would beat and brain them if ever they told it.

Whereas it is anſwered in general, as to all Crimes committed without the Kingdom, that they cannot be cognoſced or puniſhed here. It is Replyed, That as to all Crimes againſt Nature or the Law of Nations, as every party is Competent to be an accuſer, ſo every Judicature is Competent, and therefore as to the Crimes of Treaſon, or curſing of Parents, wherever committed, they are puniſhable by the Juſtices: But becauſe in Relation to the Crimes committed abroad, there is no poſitive probation, but Declarations and Teſtimonies; Therefore as to theſe Crimes, His *Majeſties* Advocat does not inſiſt on them as diſtinct Crimes *per ſe*, but as Qualifications, Documents and Evidences of the Habitual Debauchry, and unnatural Malice expreſt by the Pannal againſt his Father for a Tract of many years.

Whereas it is anſwered, That as to all Crimes preceeding, 1685. They are taken off by the Indemnity. It is Replyed, the Indemnity 1685. is no general Indemnity, neither as to Perſons nor Crimes, but particular Crimes are Remitted, and particularly enumerat without any general clauſe: And as curſing of Parents is not particularly enumerat, ſo by the Nature of that Crime, it cannot be included or comprehended in any general Indemnity: And the words of the Act of Parliament, 20. *Act.* 1. *Par. K. Ch:* 2*d.* bears expreſly, *That the Curſers of Parents ſhall be put to death without mercy.* So that a General Act of Indemnity or Mercy without a ſpecial Remiſſion, could not include this Crime, which as the Act of Parliament bears, is expreſly againſt Nature and the Law of God: And by the opinion of all Lawers, General Indemnities do not extend to all Crimes; but theſe Crimes which are called in Law *crimina excepta* are never intended to be Indemnified, nor ſuch Crimes, where the Intereſt of Parties is more than the Intereſt of publick Juſtice, and in all former and General Indemnities, Murther and other Crimes are particularly excepted with a general Clauſe, excepting all ſuch Crimes as uſe not to be comprehended in general Acts of Indemnity; So that this ſo horrid a Crime, wherein the Parent was more intereſted than the publick, neither was nor could be comprehended under a general Indemnity: As alſo that reſtricted, limited Indemnity, bears expreſly an exoneration for all Perſons below the degree and quality of an Heretor, Wodſetter or Burgeſs. And whether the Pannal were an Heretor or not, yet it cannot be ſaid, that he is below the degree and quality of a Wodſetter or Burgeſs: And therefore the Act of Indemnity is of no uſe to him.

Whereas it is anſwered, That Sir *James* was reconciled with the Pannal, and wrote kind Letters to him, whereby *diſſimulando* former Injuries were taken off. It is Replyed, That Injuries are only taken off *diſſimulando*, which are not atrocious, but never ſpecifick Crimes, wherein the Diſcharge or expreſs Renunciation of the Party Injured cannot liberat *a vindicta publica*, the puniſhment of Crimes, eſpecially in Capital Puniſhments, belonging to the Magiſtrat, and the privat Party has not the ſole Intereſt, nor can diſpenſe with Capital Puniſhments:

But the Letter forgiveneſs or diſſimulation of the injury, founded upon, does not in the leaſt infer the Parties Father: And a ordering his ſon to call in for Chamberlain Accompts, without impowering him to Diſcharge the ſame, is not the leaſt evidence of confidence in his Son, much leſs a Remitting of his Crime.

And as to the ſecond Article in relation to the Curſing, it is poſitively offered to be proven, not in ſingle Acts, but by a tract and habit of curſing his Father in the moſt abominable Termes imaginable.

As to the third Article in Relation to the Murder, that this matter may be clear, *& ut conſtet de corpore delicti*, theſe undoubted Qualifications are offered to inſtruct, that Sir *James Standsfield* was murdered and ſtrangled, and that he did not drown himſelf. 1°. It is offered to be proven by the Miniſter, that was that night in the Houſe, that long after ten a clock at night, and that Sir *James* had retired to the Chamber, where he lay alone, the Miniſter heard the confuſed Whiſpers, Murmurs, and Noiſe of ſeveral perſons, both Men and Women, which affrighted him, and that he heard the noiſe go away by the back-ſide of the houſe, which leads directly to that Pool where Sir *James* his Body was thrown in the Water.

2°. Sir *James*'s Body was found ſwimming above the water, and albeit it appeared by the Ice upon the top of his cloaths, that he had been ſeveral hours in the water, yet there had no water entred into his Body, which is a demonſtration, that he was dead before he was thrown in the water; for a Perſon thrown alive into water drawing in of Air and Reſpiration, being in the water, he muſt draw in water, and if the Perſon drawes in as much water as fills his concavitie, he becomes heavy, having ſo much more weight of water, and therefore he ſinks; But if a perſon be thrown dead into the water, when the Clap of his Throat is ſhut, the water cannot enter, and there being ſo much emptineſs, the Body is light and ſupported by more parts of water, than the gravity of the Body can depreſs. 3°. There being ſeveral Chyrurgions and others ſent out by order from Authority to take up and inſpect the body; To ſee whether there was any evidence of Strangling, or other Symptoms of Murder upon the Body: It did appear to all theſe Perſons who did depone before a Committee of the Privy Council; That from the one jugular vein to the other round the Neck, there was a tumour of congealed black bruiſed Blood, three inches broad, and that there was congealed Blood in the Throat, upon which matter of Fact, the Colledge of Phyſicians have given an unanimous Teſtimony in writing, that Sir *James Standsfield* was Strangled and not Drowned: And the Deaconry of the Chirurgions being conveened, have emitted a Declaration in Writing, concurring and agreeing with the Report of the Phyſicians; So that it is as clear as the Light of Day, that Sir *James Standsfield* was murdered.

2°. For the Qualifications that the Pannal was the Murderer, or acceſſory to the Murder of his Father, theſe clear evidences are offered, which makes his Crime without poſſibility to be palliat or denyed. 1°. It is notorious that the Pannal is a moſt debauched, vitious, pernicious Perſon, and has been Priſoner or condemned to dy in all the

places

Places or Societies he ever haunted; He entred a ſouldier in the *Scots* Regiment where he was condemned to die at *Treves*, but made his eſcape, and his being in Priſon, in the *Marſhal Sea priſons*, *Orleance*, and *Bruſſels*, (which makes the Circuit of his Travels) are not denyed; and his profligat life and conſtant drunkenneſs, ſince he came to the Priſon, is offered to be proven by the Keepers: and as it is unneceſſar to trace all his Debauches: ſo there is one material Point offered to be proven: That upon the leaſt provocation either by Man or Woman, the Pannal uſed to ſwear by horrid Oaths, that he would take their lives, though he ſhould die in the *Graſs mercat* for it.

3° Sir *James Standsfield* for theſe Debaucheries having diſheriſhed the Pannal, and diſponed his Eſtate to his ſecond Son: It is poſitively offered to be proven, That in the *Nun-gate* of *Haddingtoun*, in *James Smiths* houſe the Pannal being told, that his Father would diſheriſh him, he with horrible Oaths vowed to cut his Fathers throat.

And whereas it is anſwered to this qualification; That the Saying that a Son would cut a Fathers throat, is but a remot circumſtance. It is Replyed, That the Law, and all Lawers do agree, That *Minæ præcedentes & damnum ſequutum*, is a moſt pregnant qualification of that party's Crime, eſpecially where the Threats were to cut a Fathers throat, which of it ſelf was ſo horrid and unnatural a villany, that it cannot be doubted he who durſt Vow it, wanted but an occaſion to act it. And it is acknowledged, that though this be the cleareſt preſumption, yet *per ſe*, it is not full probation: For though the Son had both vowed it, and reſolved it, yet by an accident he might have been prevented; But the preſumption at leaſt layes the burden, that except the Pannal could condeſcend, and document, that ſome other Perſon killed his Father, he muſt be repute the Murderer.

2° It is offered to be proven, that Sir *James Standsfield* who was a Perſon of eminent ſobriety, and veracity, did declare to ſeveral perſons, that his unnatural Son had attempted his life, and offered violence to his perſon, and particularly, that he had purſued him on horſe-back, and fired Piſtols on him; and that ſame Friday before Sir *James* was Murdered, he did declare that it was not his Debts, or any thing under Heaven that troubled him, but that his Son, and Family were plotting and contriving his deſtruction, and the next night he was murdered.

3o It is offered to be proven, that the Pannals mother declared, That her Son had Vowed to be his Fathers death, and that he was a vindictive Perſon, and that ſhe did apprehend he had Murdered him. So as to this Article, there is a concourſe of the Pannals own oaths, to murder his Father, and of his Father and Mothers declarations, that he had attempted, and was ſtill plotting the ſame.

The ſecond qualification is, that, that Saturdays night, Sir *James Standsfield* came home; The Pannal would not come where his Father was, either to Supper, or Prayer, and being expreſly deſired by ſeveral Perſons, to go to his Father and ſpeak with him; He declared (that ſame night he was Murdered) he could not endure to ſee, or look upon his Father; and he had been all that day, cloſs with *Thomſon* and his *Wife*, and *Janet Johnſton*. So after ten hours at even after the Family was gone to Bed, he came out to *Thomſons* houſe, which is hard by the Gate,

and there in presence of *Thomson*, his *Wife*, and *Jannet Johnston*, he declared that his Father would neither give him money, nor cloaths, and cursed his Father, and declared that he would shortly make ridd of him, which agrees with what he had several times said in other companies, that he was to be Laird before Christmas; And that he was shortly to be Master of all, and none could think how soon. As also shortly before Sir *James*'s death, the Pannal's mother falling in swound, it was said to him, *Philip*, ye will shortly want your Mother; To which he answered, by *God* his Father should be dead before her; And eight dayes after, his Mother falling again Sick, he repeated the same words, whereby it is evident the Murder was deliberat and determined.

3o. On the Sunday morning, before Sir *James*'s body was found, *Philip* came to the Ministers Chamber, and told him that his Father was gone out in the night, and that he had been searching for him about the Pools, and water side, and when the Minister reproved him for making such insinuations against his Father, he laughed at him, and went away to the Pool, and stood looking upon his Father in the water, but made no discovery; and thereafter a stranger coming by upon the high way likeways seeing Sir *James*'s body in the water, he came back and discovered the matter; At which *Philip* seemed surprised, and told that he had seen his Father's body in the water before, but he did not think fit to be the first discoverer, which shewes, that he was conscious of his own guilt; otherwayes upon the first sight of his Father in the water, he would have gone to him, but on the contrary he never laid a hand upon his Father's body, either to pull him out of the water, or to carry him into the house, for the dread of some extraordinary discovery, and did not allow the Corps to be brought within his Fathers gates, but caused carry the Corps to the Wake- miln, where to cover the appearance of strangling upon his body, he intrusted *Jannet Johnston* with the care of woonding him, who was known to be a person so odious to Sir *James*, that he could not see her for her baseness with the Pannal, and she did acknowledge, that she had not been for three quarters of a year within the house before; And yet this infamous Strumpet, who has been tortured by order of the privy Council, as accessory to the murder, chiefly intrusted to see the naked body, and the cloaths put on.

4o. The Pannal did refuse to send for a Chyrurgion, and to let his Father's body be sighted, though the Minister, and others did expresly demand it; And the *English-men* in the *Manufactory*, who were acquainted with the *Crowner-Laws*, they made a mutiny anent the Burial, till the Corps were sighted, Yet the Pannal caused bury the Corps that same night without shewing them.

The Corps being raised by order, and incision being made, whereby the Strangling did clearly appear, and the Corps being dressed clean, and Linens put on, there did appear no blood; but to take off all suspition, the Corps were lifted up, and the night-cap being wrong put on, it was altered, and changed, and thereafter the Corps were laid down without any blood upon the Linen; and the Pannal (who to this time had never touched his Father's Corps) being required to assist to lift the Body into the Coffin, Having taken his Father by the right side of the Head with his left hand, *James Row* bearing the left, the Pannal's hand was altogether

together blooding, as if his hand had been put in a Vessel of Blood, which notwithstanding of all his Impudent resolution to the contrary, had that horrible impression, and conviction upon him, that he let his Father's head fall to the ground, and cryed out, *O God*, and run away, and went to a Dask in the Church, where he lay, groaning, and in confusion, but durst never return to touch the Corps, and as there can no natural reason be given, but an ordinar and wonderful Providence of God, in this Kind of discoveries of Murder; So the Fact was never more evident, and sure, though half a dozen of Persons were bearing the Corps, no mans hands were bloody but the Pannals, and the Corps being two intire days in the Grave, in that Weather & season, the Blood by the course of nature was become stagnat and congeal'd, so that the former tossing, and lifting of the Corps, and even the incision it self had occasioned no such effusion, but only some water or gore; But upon the first touch of the Pannal the Murderer, there appeared abundance of liquid florid Blood, and though this *per se* might not be sufficient, and as *Mattheus* is cited, it should not inferr Torture, yet *Mattheus* acknowledges that most part do sustain this, as a violent presumption oftimes experimented, yet in his opinion it is not sufficient for Torture, Because Torture being in it self a punishment, it cannot be used, except where there is *semiplena probatio*, or where the Conscience of the Judge is satisfied; as to the truth of the Crime, and therefore uses an extraordinar course, to extort an confession, which proves that this presumption is *semiplena probatio per se* according to their own grounds.

And whereas it is alledged, that Capital punishment cannot be infered from conjectures, but from clear & positive testimonies, It is answered, that the *Lex. ult: Cod: de probationibus*, clearly states that probation is either *Testibus, tabulis instrumentis documentis & indiciis*. And *Mattheus* states a particular title upon this single question, *Cap. 6. titulo 15 de probationibus* & does most positively determin that Crimes are to be proven *Documentis, Argumentis & Indiciis*. And it is most evident, that the probation which ariseth from the Nature of the thing, which is incapable to be soffisticat, or imposed upon, as witnesses may be, that kind of probation is the surest, because it is always the same, & admits no variation: Its true, and it is acknowledged that *Argumenta & Indicia* must be *clara & evidentia*, and probation being *Quod facit fidem Judici*, every mans experience tells him, that the complication and conjunction of so many evident qualifications, though none of them *per se* were sufficient, yet being all of them Joyned, it induces a greater certaintie, than two Witnesses positively deponing upon the Fact. And therefor the evidence of the probation belongs to the Inquest, and the relevancy that these Articles conjoyn'd, or any part of them are sufficient to infer the Crime, belongs to the Judge.

As to the Presumptions offered for the exculpation of the Pannal, they are not at all relevant; for though so horrid a Murder is not to be presumed against Nature, yet being proved, or so strongly evinced, it does but conclude the Pannal's greater Guilt; and suppose that Sir *James Standsfield* was formerly Melancholy, and had been Frantick in the year 1679, yet it is known he recovered his Health, and was of a compos'd, sedat temper of Mind for many years thereafter, and was as capable and diligent about his Affairs, these many years, as he had been formerly,

and was so considered and employed by the wiseſt men in the Kingdom; and at the time of his Death there was no Sickneſs, or returning of Frenzie upon him, but all that Week he had composedly done his Affairs; and did upon the *Saturday*, when he went Home, diſcourſe rationally upon all the Subjects that occurred: But it being ſo clearly documented & proven that he was Strangled, it is a ridiculous conceit, and there remains no poſſibility that after he was Strangled, he walked out and drowned himſelf. And as to that Preſumption, that the Pannal rendered himſelf Priſoner, it was indeed ſuitable to the reſt of his Impudence, and he did not render himſelf till after the Order to apprehend him was intimate to him, when he could not Eſcape, and when he was under Obſervation, and there did not want Project in fixing upon this Impudence when he could not Eſcape, as an qualification of Innocence, that he would render.

Sir David Thoirs *without repetition of the Replyes made by His* Majeſties *Advocat, doth make his Duply to the foreſaids Replyes, and every member thereof, in order as follows*, viz.

TO the Firſt, Anent the Treaſonable Words, the Pannals Procurators oppon their former Anſwers, and the Act of Parliament whereupon that part of the Ditty is founded, being only in order to ſuch Treaſonable Speeches adviſedly ſpoken. The conſtant tract of the Pannal's life, in drinking his *Majeſties* good Health at all occaſions, and offering to adventure his life in His Service in the laſt Rebellion, ſufficiently demonſtrats, that if any ſuch Expreſſion did eſcape the Pannal, as it is denyed, the ſame was only raſh and unadviſed, and not deliberate and adviſed, as is required by the Act of Parliament, to infer the pains libelled; and the qualifications added by my Lord Advocat, bearing, that the Pannal did conjure the perſons then preſent to Secrecy, demonſtrats, that the Pannal was *ex incontinenti* heartily ſorrowful and penitent for the ſame. And it's clear by that excellent Law of the *Cod.* the words whereof are, *Si quis Imperatori maledixerit, ſi ex inſania miſerando, ſi ex temeritate, & petulantia temnenda, ſi ex animo injuriandi ad principem remittendum*, which demonſtrats, that by the Common Law, ſuch an raſh and unadviſed Expreſſion was never to be laid hold on to infer a capital Puniſhment, where the perſon alledged, expreſſer thereof, was not otherways ſuſpect of Diſloyalty.

2°. Repeats the Defence as to Crimes alledged committed abroad, and it were againſt reaſon and equity, that perſons for one and the ſelfſame Crime, ſhould be ſubject to the puniſhments of ſeveral Juriſdictions, where the puniſhment of the ſaids Crimes are different: But ſeing my Lord Advocat declares he hath no Probation for theſe alledged Crimes, but Certificats and Affidavits, they cannot be obtruded as a part of the Libel, becauſe the ſaids pretended Certificats and Affidavits, are neither inſert in the Libel, or given out to the Pannal, and all Crimes are to be proven *teſtibus, non teſtimoniis*; and if the cuſtom of Affidavits ſhould be introduced in this Court, all Pannals (how innocent ſo ever) might be murdered, by being deprived of their unanſwerable Objections againſt the Granters of theſe Affidavits, *&c.* and therefore they cannot be ſuſtained as a qualification to load the Pannal, or make the Inqueſt have a prejudicat opinion of him.

3°. As

3o. As to my Lord Advocat's Reply anent the Act of Indemnity, the former Defence and Act of Indemnity is opponed, and bears expreſly Murders, Robberies, Slaughters, and all other Crimes committed againſt His *Majeſtj*, and Laws of the Kingdom, either by Word, Writ, or Deed, which undoubtedly excludes all alledged Crimes, ſaid, done, or committed by the Pannal before that time, and this favour *& gratia principis*, is to be ampliat and extended, and not reſtricted, and all His *Majeſties* Judges and Officers of State are commanded to ſuſtain the ſame, according to the moſt ample Interpretations for the Pannal, that the Words will allow.

4o. The pretence that the Pannal was of the quality of a Burger, or a Baron, is moſt irrelevant, the Pannal having no viſible Fortune at the time, and as my Lord Advocat himſelf acknowledgeth, no expectation of any Fortune whatſoever, ſo that if Barons, Burgars, Liferenters, Wodſetters, and likewiſe theſe who have nothing in poſſeſſion at the time, ſhall be ſecluded from the benefite of that Indemnity, it is ſcarce intelligible, to whom, and for what cauſe the ſame was granted. 3o. And as to that part of the Reply, bearing, that this was a privat Injury, and ſo not comprehended within the Act of Indemnity, the former Defence is opponed, and all pretence of privat Injury was taken away by diſſimulation or death.

As to the pretence that the Reconciliation can be no defence againſt the Libel, as to *vindicta publica*, and that the Letter whereupon the Defence is founded doth not import a Diſſimulation. It is Duplyed, That the Act of Parliament being an Comminatory Law, and principally intended in favours of Parents, the ſame was never yet made uſe of, and it were very hard to make uſe of the ſame to deprive a Parent of his Child, for any raſh or paſſionate Expreſſion, eſpecially where upon Repentance the Father had remitted the Injury; but the Father being in effect Judge of the Injury, his remitting the ſame ought at leaſt to Aſſoilzie the Child from any capital concluſion. And as to the alledged habitual Curſing, the ſame is denyed, and the former Defence founded upon the Act of Indemnity is repeated and opponed, and the Libel is opponed, which doth not bear habitual Curſing, but particular Acts at particular Times.

And as to the Qualifications alledged by my Lord Advocat, for clearing that the Defunct Sir *James Standsfield* was murdered, the Pannal is truely ſorry, that for his own Defence, and for clearing of his own Innocence his Lawers ſhould be neceſſitate to plead any thing relating to his Fathers Infirmities, or way and manner of his Death. But it is Duplyed, That the whole Preſumptions adduced by my Lord Advocat are allanerly fallacious Conjectures, and can neither be *ſeparatim*, or complexly relevant to inſer any ſuch thing; becauſe 1o. That the Miniſter did hear a whiſpering noiſe, and was thereby terrified, his Terror and Conſternation having (as he himſelf pretends) put him in a Diſorder and Confuſion, he was thereby rendered incapable to obſerve or judge of any thing that happened. 2o. That the Body was ſwiming above Water, imports nothing, the Defunct having a great Coat of thick Cloth about him, which was ſufficient to keep him floating above. 3o. The pretence that there was no Water in the Defuncts Body when the Chirurgions viſited the ſame, imports nothing, becauſe the Defuncts Body having

been several times stirred before that time, by which the water might have run out, as it actualy did (in case there was any water within it.)

4°. Albeit where a Man is drowned unwillingly, and endeavors to breathe, so long as he can, his breathing may suck-in the Water; Yet if a Man intend to drown himself, he will certainly endeavour all means for quick dispatch of himself, and thereby keep in his breath, and the keeping in of the Breath after that manner was sufficient, both to keep the Body floating, and the water from coming in.

5°. To put the matter beyond all question, the Defunct was lying in the water a considerable space from the Bank; And albeit the Ice was not so strong as to have carried a Child, yet the Ice was whole and intire betwixt the Defunct and the Bank, which demonstrats, that the Defunct had Jumped in from the Bank to that place where he was lying. 6°. As to that pretence, that there was Blood about the Defuncts neck, all lapper'd and bruised before incision was made, the Defunct being pulled out of the water, by an great Cleik, the touching of the Neck with the Cleik, when his breath was just gone out, was sufficient to have made the Blood where that part was to lapper and congeal. 7°. As to the declarations of the Physicians, and Chirurgions, they are only declarations *ex auditu*, and upon report of one or two Chirurgions, and hath no foundation, but the ignorance or knowledge of the saids two Reporters; neither can any such declarations be obtruded against the Pannal, because not given out with the Libel; But whatever may be inferred from these Presumptions, whether the Defunct was Murdered or not, the same does not concern the Pannal, unless his accession to the Murder were instructed, as is impossible it can be.

As to the qualifications alledged by my *Lord Advocat*, for fixing the Murder, or accession thereto upon the Pannal; It is duplyed to the first, That the Pannal's alledged vitious Life, and the story at *Treves*, his being Drunk in prison, and Threatning to cut Throats upon smal provocations, the same are extrinsick to the Lybel, and cannot be respected, 2°. As to the alledged threatning used in *James Smith's* House, the Lybel is opponed, bearing these expressions, to have been used in the year 1684, or some year preceeding; And therefore the former defence founded upon the Indemnity, is repeated, and opponed. And whereas my *Lord Advocat* pretends that *minæ præcedentes cum damno sequuto*, is sufficient either to fix the guilt upon the Person who used the Threats, or at least to burden him with the probation, that another commited the Crime. It is Duplyed, 1°. That My *Lord Advocat's* position is absolutly denyed, unless he can instruct some other positive accession against the Pannal, and these pretended Threats being taken away, not only by the Act of Indemnity, but likwayes by dissimulation, which is not only offered to be inferred from the Letter made mention of in the Defence, but likeways by the Defuncts owning, receiving, intertaining, furnishing, and providing for the Pannal, in every thing suitable as his eldest Son, the same doth undoubtedly take away all pretence that can be founded upon threatning, so many years preceeding; and by no Law can the Pannal be burdened to prove who were either Actors, or in accession to his Fathers Murder.

As

As to the 2d qualification bearing, that the Defunct said to several Persons, that the Pannal offered to invade him (denying the same) the Fathers assertion could not infer a Crime against the Pannal, unless the Crime it self were otherwayes proven by witnesses, and the same is Libelled to have been said by Sir *James* before the Act of Indemnity. And Sir *James*'s other assertion, that he was in trouble, for fear of prejudice from his Family, cannot infer a Crime, especially against the Pannal; and far less can it be proven by the *Relict* and the other Son, who in Sir *James*'s apprehension were designing mischief against him, and for their own vindication, they would certainly depone partially against the Pannal. And the same is repeated against the other expressions alledged spoken by the Mother; And witnesses cannot be received to prove what another witness said.

As to the pretence, that the Pannal refused to sup with his Father the night before his Death. It is Duplyed, the Pannal was not at all in use to sup, except on Sundays night. And the Pannal had no kindness for the Minister, Because he and others of his Gang, had endeavoured to keep up discord betwixt him and his Father.

As to the alledged Bleeding of the Corps, the former Defences are opponed; And albeit the Pannal did help to lift his Fathers Corps before the incision, yet no Blood did appear till long thereafter that the incision was made, and the Pannal did fall to grip that part of his Father's Head where the Incision was. So that the Blood falling from the wound, can neither be a Ground nor Presumption for guilt; And though the Pannal was surprised to see his Father's Blood, Yet the same did only proceed from natural Duty and affection, and not from any apprehension of Guilt. And these qualifications being all Libel'd and Debated upon: It is humbly desired for the Pannal, That the Lords of Justiciary would give a separat Interloquitor upon every particular qualification.

Sir *Patrick Hume* for the Pannal adds, That as to the point of Treason, It is offered to be proven, that it was when he was Drunk, and after Cups, and is so presumed, especially it being, as it is acknowledged by the Libel, in a Drunken company.

2°. As to the Act of Indemnity, It is extended to all Crimes except the *Arch-bishop*'s Murder, and *exceptio firmat regulam, &c.* And the Act bears not that Clause excepting other Crimes, which uses to be excepted.

3°. As to the qualifications condescended on in my *Lord Advocat's* answer, either they are Libel'd, and so oppones the former answer; And if they be not Libel'd, they cannot be considered as qualifications.

4°. Whereas it is alledged, That the Pannal was in use to threaten to cut Throats, when in passion, the Argument is retorted: For though he threatned, nothing followed; And so his Threatnings were but *verba jactantia*.

5° As to the citation out of *Matthew*, that parties may be punished upon presumptions. It is answered, That the Case there stated is where the Person who commited the Slaughter, was apprehended in the place where it was committed, That he was all bloody and with a bloody Sword, answerable to the Wound, and that he became pale when he was apprehended, and that he made no answer, but in terrour fled away, which are such Acts as do evidently make appear the Slaughter, and

been ſeveral times ſtirred before that time, by which the water might have run out, as it actualy did (in caſe there was any water within it.)

4°. Albeit where a Man is drowned unwillingly, and endeavors to breathe, ſo long as he can, his breathing may ſuck-in the Water; Yet if a Man intend to drown himſelf, he will certainly endeavour all means for quick diſpatch of himſelf, and thereby keep in his breath, and the keeping in of the Breath after that manner was ſufficient, both to keep the Body floating, and the water from coming in.

5°. To put the matter beyond all queſtion, the Defunct was lying in the water a conſiderable ſpace from the Bank; And albeit the Ice was not ſo ſtrong as to have carried a Child, yet the Ice was whole and intire betwixt the Defunct and the Bank, which demonſtrats, that the Defunct had Jumped in from the Bank to that place where he was lying. 6°. As to that pretence, that there was Blood about the Defuncts neck, all lapper'd and bruiſed before inciſion was made, the Defunct being pulled out of the water, by an great Cleik, the touching of the Neck with the Cleik, when his breath was juſt gone out, was ſufficient to have made the Blood where that part was to lapper and congeal. 7°. As to the declarations of the Phyſicians, and Chirurgions, they are only declarations *ex auditu*, and upon report of one or two Chirurgions, and hath no foundation, but the ignorance or knowledge of the ſaids two Reporters; neither can any ſuch declarations be obtruded againſt the Pannal, becauſe not given out with the Libel; But whatever may be inferred from theſe Preſumptions, whether the Defunct was Murdered or not, the ſame does not concern the Pannal, unleſs his acceſſion to the Murder were inſtructed, as is impoſſible it can be.

As to the qualifications alledged by my *Lord Advocat*, for fixing the Murder, or aceſſion thereto upon the Pannal; It is duplyed to the firſt, That the Pannal's alledged vitious Life, and the ſtory at *Treves*, his being Drunk in priſon, and Threatning to cut Throats upon ſmal provocations, the ſame are extrinſick to the Lybel, and cannot be reſpected, 2°. As to the alledged threatning uſed in *James Smith's* Houſe, the Lybel is opponed, bearing theſe expreſſions, to have been uſed in the year 1684, or ſome year preceeding; And therefore the former defence founded upon the Indemnity, is repeated, and opponed. And whereas my *Lord Advocat* pretends that *minæ præcedentes cum damno ſequuto*, is ſufficient either to fix the guilt upon the Perſon who uſed the Threats, or at leaſt to burden him with the probation, that another commited the Crime. It is Duplyed, 1°. That My *Lord Advocat's* poſition is abſolutly denyed, unleſs he can inſtruct ſome other poſitive acceſſion againſt the Pannal, and theſe pretended Threats being taken away, not only by the Act of Indemnity, but likwayes by diſſimulation, which is not only offered to be inferred from the Letter made mention of in the Defence, but likeways by the Defuncts owning, receiving, intertaining, furniſhing, and providing for the Pannal, in every thing ſuitable as his eldeſt Son, the ſame doth undoubtedly take away all pretence that can be founded upon threatning, ſo many years preceeding; and by no Law can the Pannal be burdened to prove who were either Actors, or in acceſſion to his Fathers Murder.

As

As to the 2d qualification bearing, that the Defunct ſaid to ſeveral Perſons, that the Pannal offered to invade him (denying the ſame) the Fathers aſſertion could not infer a Crime againſt the Pannal, unleſs the Crime it ſelf were otherwayes proven by witneſſes, and the ſame is Libeled to have been ſaid by Sir *James* before the Act of Indemnity. And Sir *James*'s other aſſertion, that he was in trouble, for fear of prejudice from his Family, cannot infer a Crime, eſpecially againſt the Pannal; and far leſs can it be proven by the *Relict* and the other Son, who in Sir *James*'s apprehenſion were deſigning miſchief againſt him, and for their own vindication, they would certainly depone partially againſt the Pannal. And the ſame is repeated againſt the other expreſſions alledged ſpoken by the Mother; And witneſſes cannot be received to prove what another witneſs ſaid.

As to the pretence, that the Pannal refuſed to ſup with his Father the night before his Death. It is Duplyed, the Pannal was not at all in uſe to ſup, except on Sundays night. And the Pannal had no kindneſs for the Miniſter, Becauſe he and others of his Gang, had endeavoured to keep up diſcord betwixt him and his Father.

As to the alledged Bleeding of the Corps, the former Defences are opponed; And albeit the Pannal did help to liſt his Fathers Corps before the inciſion, yet no Blood did appear till long thereafter that the inciſion was made, and the Pannal did fall to grip that part of his Father's Head where the Inciſion was. So that the Blood falling from the wound, can neither be a Ground nor Preſumption for guilt; And though the Pannal was ſurpriſed to ſee his Father's Blood, Yet the ſame did only proceed from natural Duty and affection, and not from any apprehenſion of Guilt. And theſe qualifications being all Libel'd and Debated upon: It is humbly deſired for the Pannal, That the Lords of Juſticiary would give a ſeparat Interloquitor upon every particular qualification.

Sir *Patrick Hume* for the Pannal adds, That as to the point of Treaſon, It is offered to be proven, that it was when he was Drunk, and after Cups, and is ſo preſumed, eſpecially it being, as it is acknowledged by the Libel, in a Drunken company.

2°. As to the Act of Indemnity, It is extended to all Crimes except the *Arch-biſhop*'s Murder, and *exceptio firmat regulam, &c.* And the Act bears not that Clauſe excepting other Crimes, which uſes to be excepted.

3°. As to the qualifications condeſcended on in my *Lord Advocat's* anſwer, either they are Libel'd, and ſo oppones the former anſwer; And if they be not Libel'd, they cannot be conſidered as qualifications.

4°. Whereas it is alledged, That the Pannal was in uſe to threaten to cut Throats, when in paſſion, the Argument is retorted: For though he threatned, nothing followed; And ſo his Threatnings were but *verba jactantia*.

5° As to the citation out of *Mattheus*, that parties may be puniſhed upon preſumptions. It is anſwered, That the Caſe there ſtated is where the Perſon who commited the Slaughter, was apprehended in the place where it was committed, That he was all bloody and with a bloody Sword, anſwerable to the Wound, and that he became pale when he was apprehended, and that he made no anſwer, but in terrour fled away, which are ſuch Acts as do evidently make appear the Slaughter, and

could admit of no other construction, but that cannot be pretended in this Case, where all the Presumptions are remote and extrinsick, and even in the Case instanced by *Mattheus*, and others of that Nature, they are only to take effect in order to an Arbitrary, but not a capital Punishment, which is the opinion of all Lawers, who ever wrote upon the subject, and particularly *Muscard, de prob: conclus.* 123. *Num.* 30. and 31. where the Question is stated, *an plures præsumptiones conjunguntur*, in order to inferr a capital punishment? And he concludes in the negative as a general conclusion by all Lawers, but only to infer an arbitrary Punishment.

As to bleeding of the Body, It is offered to be proven, that the Pannal touched his Father's Body before the Incision, and it did not bleed.

THe Lords, Justice General, and Commissioners of Justiciary, Having considered the Libel, pursued by His *Majestie's* Advocat against *Philip Standsfield* the Pannal: And the first part thereof, anent the Treason libel'd, they find the samen as it is lybel'd, relevant to inferr the pain of Treason.

And as to the Pannal's cursing of his Father, mentioned in the Inditement; They find these Expressions, or either of them, *viz.* the Devil take him, the Devil rive him, God damn him, relevant to inferr the pain of Death: And repells the Defence founded upon the Act of Indemnity, and finds the Pannal is not under or below the quality therein specified.

As to the Pannal's murthering of his Father mentioned in the Inditement, they found the Libel as it is lybeled and qualified relevant to inferr the pain of Death, and remits the same with the qualifications lybel'd to the knowledge of the Assise, and allowes Witnesses to be led for the Pannal's proving his Father to have been Melancholy the day before the committing of the Murder, and remits to the Assise to consider the Import thereof, if it be proven, and repells the whole other Defences proponed for the Pannal.

The Lords continues the Dyet against the said *Philip Standsfield*, till to morrow at two of the Clock in the Afternoon: And ordains him to be carried back to Prison, and the Witnesses and Assisers to attend, ilk Person under the pain of 200 Merks.

Edinburgh the seventh of *February*, 1688.

Philip Standsfield Prisoner, being this day entered on Pannal, dilated, indyted and accused for the Treasonable drinking of the King's confusion, cursing his Father, and for the cruel and unnatural murdering of him in manner mentioned in his Ditty.

¶ The Interloquitor above-written was this day read again in presence of the Pannal, and the Assisers afternamed, *viz.*

William Bailly of *Lamingtoun.*
James Glen Stationer.
Alexander Reid elder *Goldsmith.*
Charles Charters Merchand.
David Hepburn of *Humby.*
Edward Gillespy Merchand.
Robert Sandilands Merchand.
Samuel Moncrief Merchand.
Thomas Lendall Merchand.
James Cleiland Merchand.

Hep-

Hepburn of *Beinſtoun.*
William Paton Merchand.
George Braithwood Stabler.
Iohn Marſhal Merchand.
Alexander Edgar Chirurgion in *Haddingtoun.*

The Aſſiſe lawfully ſworn, no Objection of the Law in the contrary.

His *Majeſties* Advocat for Probation adduced the Witneſſes after deponing, *viz.*

Iohn Robertſon late Servitor to Sir *James Standsfield* of *Newmilns*, aged twenty four years, unmarried, purged of malice, prejudice, hatred, ill will, and partial Counſel, and ſolemnly ſworn, Depones, a little time before harveſt laſt, the Pannal being in the Kitchin of *Newmilns*, in the deceaſt Sir *James Standsfield's* houſe, where the Deponent was likewiſe preſent, he ſaw the Pannal *Philip Standsfield* take a Cup of Ale, and heard him ſay: There is the Pope's confuſion, the Antichriſts, the Chancelours, and the Kings confuſion, and put the Cup to his Head, and drink a little, and then gave it to *Samuel Spofforth*, and commanded him to drink it, and made him drink it on his knees; depones, that there were likewiſe beſides *Samuel Spofforth*, *Jeremy Smith*, *Agnes Bruce* and *Elſpeth Jameſon*; and depones that *Philip Standsfield* the Pannal was not drunk at the time; Depones, that at the naming of the ſeveral Confuſions above-mentioned, he ſtill drank a little of the cup; And this is the Truth as he ſhal anſwer to God: The Deponent further depones that he ſaid to the Pannal, after the drinking of the ſaids Confuſions, that it was Treaſon, and he anſwered, ye dog what are you concerned; ye do not underſtand to whom ye ſpeak, *Sic ſubſcribitur.* *Iohn Robertſon.*

Agnes Bruce Servant to the deceaſt Sir *Iames Standsfield*, aged twenty four years, unmarried, purged and ſworn, Depones, That a little before Harveſt laſt, ſhe being in the Kitchin of *New-milns* with *Philip Standsfield* the Pannal, ſhe ſaw him take a Cup of Ale, and drink the confuſion of the Pope, and the King, and heard him bid *Samuel Spofforth* ſit down on his Knees and drink the ſame, which accordingly he did, after this the Deponent went up Stairs, and knows no more what paſt at that time, but heard they drank more confuſions; Depones, that about a week after it being talked in the houſe, that he had drunk the confuſions aforeſaid, he ſaid to the Deponent, God damn him if he knew who divulged it, he would be their Death: And this is the Truth as ſhe ſhal anſwer to God, depones ſhe cannot write, *Sic ſubſcribitur.*

Linlithgow.

Samuel Spofforth late Servitor to Sir *James Standsfield* of *New-milns*, aged 19 years, unmarried, purged and ſworn, Depones, that a little before Harveſt laſt, the Deponent was in the Kitchin of *New-milns* with *Philip Standsfield* the Pannal, where he heard him drink a confuſion to the Pope, Antichriſt, and the King, and to the Devil, and the Pannal preſt the Deponent to drink the ſame confuſions upon his knees; Depones, *Iohn Robertſon*, *Agnes Bruce*, *Jeremy Smith* and *Elſpeth Jameſon* were all likewiſe preſent at that time, and that theſe confuſions were drunk ſeverally: And this is the Truth as he ſhal anſwer to God. *Sic ſubſcribitur.* *Samuel Spofforth.*

John

Iohn Robertſon above deſign'd being Re-examined, purged and ſworn, Depones, That the Deponent being at *Morum* Caſtle after Harveſt laſt, in order to give a call to a Miniſter, the Deponent having met with *Philip Standsfield* the Pannal, he ſaid to him ye are a wiſe lad, if ye have ſubſcribed that Bond, the Devil take him, and particularly, the Devil take his Father, and named his Father; depon'd that at another time in the midſt of Harveſt laſt, the Deponent and Sir *James Standsfield* the Pannal's Father being going to *Smeitoun* with a Miniſter, the Pannal asked him, where he and his Father was going? and the Deponent anſwered, that he was going to *Smeitoun* with his Father; And the Pannal *Philip Standsfield* ſaid, Devil let never one of them come back again, Horſe nor Man: depones further, That ſeveral times, and frequently, when the Deponent has been ſeeking the Pannal to come to Dinner with his Father, the Pannal's ordinar Anſwer was, the Devil damn him, and you both, and Devil rive him, for I will not go to him, and if he had a ſixpence a day, he would not go near him, for his Father girned upon him like a Sheep-head in a tongs, and that he has heard him ſay ſometimes, God damn his Father, And this is the Truth as he ſhal anſwer to God. *Sic ſubſcribitur.* *Iohn Robertſon.*

William Scot Clothier in *New-milns*, aged 30 years, married, purged and ſworn, Depones, that betwixt *Michaelmaſs* and *Martimaſs* laſt, the Pannal *Philip Standsfield* having come to the Deponent's Shop, and asked for ſome Tobacco, the Deponent ſaid to *Philip*, his Father would not let him want money to buy Tobacco; and the Pannal *Philip* ſaid, the Devil take him and his Father both, for there never came an honeſt man out of *York-Shire*; Depones his wife was preſent with him, when that Diſcourſe paſt: Depones, he cannot write. And this is the Truth as he ſhal anſwer to God: *Sic ſubſcribitur.*

Linlithgow.

Agnes Bruce above-deſigned being Re-examined, Purged and Sworn, Depones, That ſhe did hear the Pannal uſually vow and ſwear he would kill any perſon that offended him, and that the Pannal did haunt much with *Janet Johnſton*, *George Thomſon* and his Wife, and that he went frequently out of his Fathers Houſe after Supper to theſe perſons; and further Depones, that ſhe has heard the Pannal frequently curſe his Father, and bid the Devil damn him, and rive him, and ſwell him; and that ſhe has frequently heard him expreſs his hatred and abhorrence of his Father, and that he could not abide to ſee his Father: Further Depones, that the *Munday* at Night before Sir *James* came to *Edinburgh*, the laſt time he was in it, being about a Fourth-night before his death, the Deponent was ordered to call the Pannal to his Mother after he was gone to his Chamber, and that accordingly ſhe did it, and when the Pannal came down, the Deponent left him with his Mother alone, and when ſhe was without the Door, ſhe heard him ſay to his Mother ſeveral times, *God damn him if he did it not*, and deſired his Mother to take a good Heart, for as long as he had, ſhe ſhould not want: Depones, ſhe knows not what he meaned by theſe Words, but knows there had been a little Quarrel betwixt Sir *James* and his Lady that ſame Night: Further Depones,

pones, that on *Tueſday* thereafter, when Sir *James Standsfield* was going in to *Edinburgh*, ſhe did hear *Philip Standsfield* the Pannal ſay in his Mothers Chamber (his Father not being preſent,) God let him never return, God let him never ſee his Fathers face again, the Devil go with him, the Devil rive him, and take him away, and that there was no Body in the Roum at the time but the Pannal and his Mother, and the Deponent was at the Door; Further Depones, that about a month before, Sir *James* having reproved the Pannal, upon the occaſion of an Accompt given in by *William Anderſon* Brewer, ſhe did hear the Pannal ſay in his Mothers Chamber (Sir *James* not being preſent,) God damn him if he ſhould not do ten times worſe, and that he could not endure to ſee his Fathers face, and that he had hated his Father theſe ſix or ſeven years: Further Depones, that about a Fourth-night or twenty days before Sir *James* his death, it being ſaid that *Philip* was to go to Town with his Father, ſhe heard him ſay, he would be hang'd ere he went with him, let him go, the Devil go with him, and let him never return, and this likewiſe in his Mothers Chamber, and in her preſence: Depones, the Pannal did ordinarly ſhift occaſions of being in his Fathers Company: Depones, that the *Friday* before Sir *James* his death, ſhe knows the Pannal and *Janet Johnſtoun* were a conſiderable time together in the Pannal's Chamber, where the Deponent heard *Janet Johnſtouns* tongue, but doth not know if *George Thomſon* and his Wife were with them: Depones, that on the *Wedneſday* before Sir *James* his death, *Philip* having curſed ſome of the Servants, the Deponent ſaid to him, God be thanked, he was not their Maſter, and that he anſwered her with an Oath, ſhe knew not how ſoon he might be their Maſter: Further Depones that ſhe thought Sir *James* not ſo merry as his ordinar the night before his death, but that he conveyed Mr. *Bell* to his Chamber, and thereafter came down to his own, and the Deponent having deſired to ſpeak with Sir *James*, his ſervant *John Robertſon* told her ſhe could not, becauſe his Chamber-door was ſhut, and he was gone to Bed, and that ſhe did then ſee Light in his Roum, and when ſhe was going away, found the Hall-Door which was without his Chamber-door ſhut, and that the Hall-Door was not uſually cloſed in the night-time except Sir *James* had done it himſelf, and which he did but once in the two or three Nights: Depones that on the *Saturdays* night when Sir *James* came home, he did go to his Ladies Chamber, where he ſtayed not a quarter of an hour, and that his Lady fell a quarreling of him for going to another Houſe before he came there, and that the Deponent came out of the Chamber, and knows not what more paſt there. Depones the next morning, when Sir *James* was miſt, the Deponent went in to his Roum to put on a Fire, and found the Bed better ſpread up than it uſed to be, and the Curtains more drawen about it, and the Candle which uſually was at the Bed-head, ſhe found it ſtanding on a Chair at the Bed-foot. And further Depones, that when the Defunct's Body was bringing up to the Houſe, the Deponent would have had him brought to his own Chamber, but *Philip* ſwore that the Body ſhould not enter there, for he had not died like a Man, but like a Beaſt. Depones that the Body was then put in the *Walk-miln* (but knows not if *Philip* cauſed do it,) and that the Body from that was brought to a Cellar within the Cloſs where there was very little light. Depones that

John Robertſon above deſign'd being Re-examined, purged and ſworn, Depones, That the Deponent being at *Moruin* Caſtle after Harveſt laſt, in order to give a call to a Miniſter, the Deponent having met with *Philip Standsfield* the Pannal, he ſaid to him ye are a wiſe lad, if ye have ſubſcribed that Bond, the Devil take him, and particularly, the Devil take his Father, and named his Father; depon'd that at another time in the midſt of Harveſt laſt, the Deponent and Sir *James Standsfield* the Pannal's Father being going to *Smeitoun* with a Miniſter, the Pannal asked him, where he and his Father was going? and the Deponent anſwered, that he was going to *Smeitoun* with his Father; And the Pannal *Philip Standsfield* ſaid, Devil let never one of them come back again, Horſe nor Man: depones further, That ſeveral times, and frequently, when the Deponent has been ſeeking the Pannal to come to Dinner with his Father, the Pannal's ordinar Anſwer was, the Devil damn him, and you both, and Devil rive him, for I will not go to him, and if he had a ſixpence a day, he would not go near him, for his Father girned upon him like a Sheep-head in a tongs, and that he has heard him ſay ſometimes, God damn his Father, And this is the Truth as he ſhal anſwer to God. *Sic ſubſcribitur.* *John Robertſon.*

William Scot Clothier in *New-milns*, aged 30 years, married, purged and ſworn, Depones, that betwixt *Michaelmaſs* and *Martimaſs* laſt, the Pannal *Philip Standsfield* having come to the Deponent's Shop, and asked for ſome Tobacco, the Deponent ſaid to *Philip*, his Father would not let him want money to buy Tobacco, and the Pannal *Philip* ſaid, the Devil take him and his Father both, for there never came an honeſt man out of *York-Shire*; Depones his wife was preſent with him, when that Diſcourſe paſt: Depones, he cannot write. And this is the Truth as he ſhal anſwer to God: *Sic ſubſcribitur.*

Linlithgow.

Agnes Bruce above-deſigned being Re-examined, Purged and Sworn, Depones, That ſhe did hear the Pannal uſually vow and ſwear he would kill any perſon that offended him, and that the Pannal did haunt much with *Janet Johnſton*, *George Thomſon* and his Wife, and that he went frequently out of his Fathers Houſe after Supper to theſe perſons; and further Depones, that ſhe has heard the Pannal frequently curſe his Father, and bid the Devil damn him, and rive him, and ſwell him; and that ſhe has frequently heard him expreſs his hatred and abhorrence of his Father, and that he could not abide to ſee his Father: Further Depones, that the *Munday* at Night before Sir *James* came to *Edinburgh*, the laſt time he was in it, being about a Fourth-night before his death, the Deponent was ordered to call the Pannal to his Mother after he was gone to his Chamber, and that accordingly ſhe did it, and when the Pannal came down, the Deponent left him with his Mother alone, and when ſhe was without the Door, ſhe heard him ſay to his Mother ſeveral times, *God damn him if he did it not*, and deſired his Mother to take a good Heart, for as long as he had, ſhe ſhould not want: Depones, ſhe knows not what he meaned by theſe Words, but knows there had been a little Quarrel betwixt Sir *James* and his Lady that ſame Night: Further Depones,

pones, that on *Tueſday* thereafter, when Sir *James Standsfield* was going in to *Edinburgh*, ſhe did hear *Philip Standsfield* the Pannal ſay in his Mothers Chamber (his Father not being preſent,) God let him never return, God let him never ſee his Fathers face again, the Devil go with him, the Devil rive him, and take him away, and that there was no Body in the Roum at the time but the Pannal and his Mother, and the Deponent was at the Door; Further Depones, that about a month before, Sir *James* having reproved the Pannal, upon the occaſion of an Accompt given in by *William Anderſon* Brewer, ſhe did hear the Pannal ſay in his Mothers Chamber (Sir *James* not being preſent,) God damn him if he ſhould not do ten times worſe, and that he could not endure to ſee his Fathers face, and that he had hated his Father theſe ſix or ſeven years: Further Depones, that about a Fourth-night or twenty days before Sir *James* his death, it being ſaid that *Philip* was to go to Town with his Father, ſhe heard him ſay, he would be hang'd ere he went with him, let him go, the Devil go with him, and let him never return, and this likewiſe in his Mothers Chamber, and in her preſence: Depones, the Pannal did ordinarly ſhift occaſions of being in his Fathers Company: Depones, that the *Friday* before Sir *James* his death, ſhe knows the Pannal and *Janet Johnſtoun* were a conſiderable time together in the Pannal's Chamber, where the Deponent heard *Janet Johnſtouns* tongue, but doth not know if *George Thomſon* and his Wife were with them: Depones, that on the *Wedneſday* before Sir *James* his death, *Philip* having curſed ſome of the Servants, the Deponent ſaid to him, God be thanked, he was not their Maſter, and that he anſwered her with an Oath, ſhe knew not how ſoon he might be their Maſter: Further Depones that ſhe thought Sir *James* not ſo merry as his ordinar the night before his death, but that he conveyed Mr. *Bell* to his Chamber, and thereafter came down to his own, and the Deponent having deſired to ſpeak with Sir *James*, his ſervant *John Robertſon* told her ſhe could not, becauſe his Chamber-door was ſhut, and he was gone to Bed, and that ſhe did then ſee Light in his Roum, and when ſhe was going away, found the Hall-Door which was without his Chamber-door ſhut, and that the Hall-Door was not uſually cloſed in the night-time except Sir *James* had done it himſelf, and which he did but once in the two or three Nights: Depones that on the *Saturdays* night when Sir *James* came home, he did go to his Ladies Chamber, where he ſtayed not a quarter of an hour, and that his Lady fell a quarreling of him for going to another Houſe before he came there, and that the Deponent came out of the Chamber, and knows not what more paſt there. Depones the next morning, when Sir *James* was miſt, the Deponent went in to his Roum to put on a Fire, and found the Bed better ſpread up than it uſed to be, and the Curtains more drawen about it, and the Candle which uſually was at the Bed-head, ſhe found it ſtanding on a Chair at the Bed-foot. And further Depones, that when the Defunct's Body was bringing up to the Houſe, the Deponent would have had him brought to his own Chamber, but *Philip* ſwore that the Body ſhould not enter there, for he had not died like a Man, but like a Beaſt. Depones that the Body was then put in the *Walk-mill* (but knows not if *Philip* cauſed do it,) and that the Body from that was brought to a Cellar within the Cloſs where there was very little light. Depones that

ſhe did not ſee any water come out of his Mouth, and that when the Deponent lifted up the Linen-ſheet, which was over him in the Cellar, ſome of them cauſed let it down again, for it was not fit to let the Body be ſeen. Depones, that *Ianet Iohnſtown* was preſent with the Body in the Cellar with the reſt, and though it was known that neither Sir *James* nor his Lady would look upon her for a good time before, nor was ſhe openly ſeen about the Houſe, yet that morning ſhe went to the Ladies Chamber, as ſoon as the Body was taken out, and the Deponent was preſent and ſaw her come in, and well enough taken with. Depones ſhe heard *Philip* after his Fathers Death, Greet and Cry, but ſaw no Tears. Depones, immediatly after his Fathers Body was found, he would have forced his Fathers Chamber-door it being ſhut, but the Key being gotten, it was opened and he entred in, and firſt took his Fathers Gold and Money out of his pocket, and then got the Keys, and ſearched the Cabinet, and that within an hour after his Father was brought from the water, he got the Buckles of his Father's ſhoes, and put them in his; Depones, that on the *Munday* after Sir *James*'s Death, the Lady and *Janet Johnſtown* having quarrelled together about ſome remains of the Holland of the woonding-ſheet, *Philip* came down out of his own Chamber, and the Deponent heard him ſay to *Janet Johnſtoun*, hold your peace when I command you, for he would reward her vvell for the kindneſs ſhe had done to him at that Time; Depones, that when the order came from *Edinburgh* to raiſe the Corps again, the Deponent did meet *George Thomſon* the Taylor, and perceived him ſhaking and trembling, and asked him what troubled him? and that his Anſwer was, he heard the blackeſt Newes that ever he heard in his Life, for Sir *James*'s Body was to be raiſed again, and ſaid he would ſew no more in the Houſe of *New-milns* for the World, and carried the Mournings to his own Houſe; Depones, ſhe knows nothing of falſe Keys made uſe of about the Houſe, only ſhe heard the Lady ſay, that there vvere: Depones, *Philip* had no lockfaſt place in the houſe, except a little Coffer, and that it once being opened, the Deponent did ſee ſeveral Keys within it, & that he offered once the Key of one of the Roums to the Deponent, but the Deponent took it not, becauſe ſhe had the ordinar Key of the Roum; Depones, that *Philip* was in uſe to ly alone, but that after his Fathers Death, he would not ly in a Roum alone at *Newmilns*, and that he declared to the Deponent that he was afraid to be alone in a Roum, either Night or Day, and that he ſleept not the Night after his Father died, and that he ſhould not go into the Roum where his Father lay, if once he had the Cabinet out of it. Depones, That a ſhort time before Sir *James* died, the Lady having fallen in a Swond, and the Deponent having told *Philip* of it, *Philip* came to his Mothers Chamber, and that his Mother told him then, that he was like in a ſhort time to loſe his Mother, and that he anſwered in the Deponents hearing, that his Father ſhould be dead firſt: and Depones that ſome few dayes thereafter in his Mothers Chamber again, and in the Deponents hearing, he renewed the ſame Words with an Oath. Further Depones that two Nights after Sir *James*'s Death, the Lady told to the Deponent, that ſomething then came in her Mind which ſhe had heard, to wit, that *Philip* before he went to *London*, when he was in his Pomp, having heard that Sir *James* was to give his

Eſtate

Eſtate to his ſecond Son, in the Houſe of *James Smith* in the *Nungate*, had vowed to kill his Brother, and the like, or little leſs to his Father, and that thereafter when they were coming in to *Edinburgh*, the Lady renewed again to the Deponent the ſame words, and added what if they ſhould put her Baira in Priſon. And this is the Truth as ſhe ſhal anſwer to God. Depones ſhe cannot write, *Sic ſubſcribitur.*

Linlithgow.

Iohn Shand ſometimes Servitor to Sir *James Standsfield*, aged 43 years, unmarried, purged and ſworn, Depones, that a litle after *Philip Standsfield* the Pannals Marriage, the Pannal and the Deponent being in *James Smiths* Houſe, in *Nungate* of *Haddingtoun*, the Pannal did expoſtulat with the Deponent that his Father dealt too narrowly with him, he being then married, and the Deponent told the Pannal that his Father was in ſtraits, and exhorted him to be dutiful to his Father; thereafter the Pannal ſaid, if I knew my Father would give his Eſtate to my Brother *Iohn*, I would cut his Throat, and the Land-lord of the Houſe being by, and preſent, and ſurprized, cryed out, God preſerve me, what means the Man, the Land-lord underſtanding by the word, *his*, his Father; And though the Deponent took the Expreſſion in the ſame ſenſe, as *Iames Smith* did, yet the Deponent endeavoured to excuſe it, by ſaying it was not his Father that he meaned, but his Brother or his man *Donald*, and the Pannal being preſent ſaid nothing for clearing of the Expreſſion, whereupon the Deponent went away, and left the Pannal, and could not endure to ſtay longer in his Company: Depones the night before Sir *James* Death being the *Friday*, the Deponent was with Sir *James* in his Chamber in *Edinburgh*, where the Defunct was reading a Sermon book, and appeared to be ſad, and ſaid to the Deponent, I have no Comfort in my Wife and Family; And this is the Truth as he ſhal anſwer to God, *Sic ſubſcribitur.* *Iohn Shand.*

Mr. *Roderick Mckenzie Advocat* Being ſolemnly Sworn, and Purged, depones, That about eight dayes before Sir *James Standsfield's* Death; The Deponent and he having met in the Parliament Cloſs, the Defunct invited him to take his morning Draught. And when they were gone to Mr *Sheil's* houſe, the Deponent perceiving him to be in ſome concern, the Deponent asked him, what troubled him? the Defunct anſwered, that he had no ſatisfaction at Home, whereupon the Deponent ſaid, that People reported that he was partly the occaſion of it, having diſheriſhed his Son the Pannal, and acquainted him therewith: And the Defunct anſwered, ye do not know my Son, for he is the greateſt Debauch in the Earth: and that which troubles me moſt is, that he twice attempted my own Perſon; And this is the truth as he ſhall anſwer to God. *ſic ſubſcribitur.* *Rod. Mckenzie.*

Archibald Dumbar Merchant in *Edinburgh*, aged 26 years, Married, purged, and Sworn, Depones, that the Deponent having met with the deceaſt Sir *James Standsfield* at *Culter*: But he does not remember poſitively the time, but it was either in the year of this Kings Parliament, or the Harveſt before, and Sir *James* and the Deponent, and ſome other company being in an

Roum: Sir *James* was discoursing of his Sons unduty fulness, and within a little while having heard a shot at the utter-door of the house, and the Deponent, and others offering to go out to see what the matter was. Sir *James* was unwilling to let them, least they should come to Hasard. And thereafter having heard another Shot, they did offer to go down again, and Sir *James* still diswaded them, & said, that it might be his distracted Son *Philip*. And they having enquired, if he was in the Country, and how he came to fear any harm from him, Sir *James* said, he believed he was in the Country, and that in his going South he had followed him to *Lothian-burn*, and shot two Pistols, first one, and then another at him, and if it had not been that Sir *James* was well horsed, and his Son *Philip* upon a work-horse, he had killed him. And *Samuel Menzies* having said he was sure there could not be Ball in them. Sir *James* said, he had gotten too many proofs of his Sons unnaturality to him, that he had no will to be in his reverence. Depones that Sir *James* all that night went not to Bed, and the Deponent sat up with him, and conveyed him in to *Edinburgh*. And this is the truth as he shall answer to God. *Sic subscribitur.*

Archibald Dunbar.

Mr. *William Clerk* Advocat, purged, and sworn, Depones, that having frequent occasions to be with Sir *James Standsfield*, and he having desired him to draw a disposition of his estate to his Son *John*. Sir *James* did complain of his Son *Philips* unduty fulness to him. And the Deponent having diswaded him to do it, since his Son *Philip* might be reclaimed: Sir *James* said, no, for he had no expectation of it; For when he was at the *Lead-hills*, there was some Pistol shot at him, which he was sure came from his Son *Philip*. And this is the truth as he shall answer to God. *Sic subscribitur.*

William Clerk.

Mr. *John Bell* Minister of the Gospel, aged 40 years, *Solutus*, purged and sworn, produces a written Declaration signed under his hand, upon what he knows relating to the Murder. And Depones the same is truth as he shall answer to God. *Sic subscribitur.*

John Bell.

Follows the tenor of the said Declaration.

The declaration of Mr. *John Bell*, in answer to several interrogatores proposed by his *Majesties Advocat* before the Lords of the Committee of the Council.

Imprimis I declare, that at Sir *James Standsfield*'s earnest desire, I went from this Town with him to *New-miln*. And that by the way I discerned nothing but sound Judgment, and reason in Sir *James*, for his discourse was both rational and pertinent, and that both at Supper that night, and after Supper his discourse was rational, and his carriage most Civil, and he was pleased to accompany me to my Chamber, and sat with me there (as I supposed) until it was about ten a Clock at night, discoursing pertinently, and to good purpose.

2o I declare, that having slept but little I was awakened in Fear by a Cry (as I supposed) and being waking I heard for a time a great Dinn, and confused noise of several voices, and Persons some times walking, which af-

affrighted me (ſuppoſing them to be evil wicked Spirits) And I apprehended the Voices to be near the Chamber door ſometimes, or in the Tranſe, or Stairs, and ſometimes below, which put me to ariſe in the night and bolt the Chamber door further, and to recommend my ſelf by Prayer for protection, & preſervation to the Majeſtie of God; and having gone again to Bed, I heard theſe voices continue, but more laigh till within a little time, they came about to the Chamber window; And then I heard the voices as high as before, which encreaſed my fear, and made me riſe again to look over the window, to ſee whether they were men or women; but the windqw would not come up for me, which window looked to the Garden, and Water, whither the voices went on till I heard them no more, only towards the morning I heard walking on the ſtairs, and in the Tranſe above that Chamber where I was lying.

3°. I declare that I told the Women who put on the fire in my Chamber that Sabbath morning, that I had reſted little that night through dinn I heard, and that I was ſure there were evil Spirits about that houſe that night.

4°. I declare that about an hour after day, *Philip* came to my Chamber and asked if Sir *Iames* came to that Chamber this morning, and told me that he had been ſeeking him upon the the banks of the water; unto which I replyed, I have not ſeen your Father, but what mean ye by the banks of the water? whereupon *Philip* without anſwering went down ſtairs immediatly, and within a little time, I followed to ſee what he meaned, and haveing gone without the Gate, and up the Cawſey that leads to the Manufactory; One came running, and ſaid, they had found Sir *Iames* lying in the water, whereupon I was ſtricken with ſuch aſtoniſhment, fear, and trembling, that I could go no further, but returned trembling to the Chamber, and having ſitten down on the bed ſide, I ſaid to an honeſt man who accompanied me, this is the ſadeſt day that ever I ſaw; my affrightment in the night was terrifiying to me, but this is more grievous and having gone to an honeſt mans houſe, where I took horſe that morning, I ſaid, if the Majeſtie of God did ever permit the devil, and his inſtruments, to do a honeſt man wrong, then Sir *Iames Standsfield* hes received wrong this laſt night, which the Lord will deſcover in his good time.

5°. I declare that after my return from *Morum*, that Sabbath evening, *Philip* told me that he had advertiſed ſeveral Freinds at *Edinburgh*, and that he was expecting the Commiſsary amongſt others that night, whereupon I commended what he had done, in ſending for ſuch intelligent Perſons, and that for two reaſons (1) Becauſe it was neceſſary his Fathers body ſhould be ſighted. (2) Becauſe they could adviſe him about his Burial. *Philip* anſwered that he was ſeen by theſe that took him out of the water. But I replyed that was not enough, for the Murder committed was either a violent Murder, or a diſtracted Murder; and having deſcribed what a diſtracted murder was (upon *Philips* relateing ſome diſtemper his Father had been in ſome years formerly) I ſaid, That I conceived no Perſon, could come to ſuch a high Act of frenzie, to do ſuch a thing, but it would be known on him, many hours, yea ſome dayes before; But I could teſtifie, that Sir *Iames* was in his right reaſon yeſternight at ten a clock, wherefore I inclin'd to think it was a violent Murder committed by wicked Spirits; And ſo adviſed, that the Corps might be ſighted by the neareſt Phyſicians, and Freinds,

and the honeſt men living in that Town; nevertheleſs they went and buried Sir *Iames* that night, without either acquainting me, or ſeveral honeſt Perſons who lived in the place. Mr *Iohn Bell* depones his above written declaration is truth, as he ſhall anſwer to God, *Sic ſubſcribitur.*

Linlithgow. *Iohn Bell.*

Sir *Robert Sinclar* of *Steinſtoun*, purged and ſworn, Depones. Sir *Iames Standsfield* being at the Deponent's Houſe, told the Deponent, that he regrated that his Son *Philip* had miſpent his Time and Money, and when he came Home from *London*, he was aſhamed to tell how he came on him in his Chamber, at *London*; And this is the Truth as he ſhal anſwer to God, *Sic ſubſcribitur.*

Ro: Sinclar.

Iames Murehead Chirurgion, aged 32 years, married, purged and ſworn, Depones, that after the Deponent and *Iames Craufurd* Chirurgion had opened the Corps, about the Neck, and ſewed it up again, and removed the foul Linen, and put on again the clean Linens, in doing whereof they were obliged to ſhake the Body to and fro, and move the Head back and foreward: The Deponent deſired that the Friends might lift the Body, and put it in the Coffin, and that the Pannal having come and lift up the Head, he did let it fall upon the Table ſuddenly, and that it made a conſiderable noiſe at the falling, and that the Pannal retired back quickly rubbing his Hands on his Breaſt, and crying, *O God! O God!* and ſome ſuch other Words, and that the Deponent being aſtoniſhed thereat, looked to the Corps, and as the Pannal did take away his hand from it, did ſee it darting out Blood through the Linnen, from the left-ſide of the Neck which the Pannal touched, and that the Deponent was amazed at the ſight, partly through the Darting out of the Blood, and partly through the apprehenſion he had of the Murder. Depones, he ſaw no Body touch the left-ſide of the Defunct's Head the time it bled, but the Pannal; Depones that as ſoon as the Deponent recovered out of his amazment, he cryed to his Boy to give the Pannal ſome Triacle-water, which he did; but Depones he did not ſee *Philip* the Pannal return again to the Body of his Father; Depones when the Deponent and the other Chirurgion were putting on the clean Linens, and ſtirring and moving the Head and Craig, he ſaw no Blood at all. And this is the Truth as he ſhal anſwer to God, *Sic ſubſcribitur.*

Ia: Murehead.

Iames Muirhead and *Iames Craufurd* Chirurgions give in their Report and Declaration in write, anent the Murder of Umquhile Sir *Iames Standsfield*, which they renewed upon Oath, in preſence of the Juſtices and Aſſiſers, and whereof the Tenor follows.

Edinburgh, December 1. 1687 { *November* 30. 1687. we viewed the Corps in *Morum* Church.

We under Subſcribers *Iames Craufurd* and *Iames Murehead* Chirurgions in *Edinburgh* having order from Sir *Iohn Dalrymple* his *Majeſties* Ad-

Advocat to go to *Morum*, and there to take up the Corps of Sir *James Standsfield*, and to ſight and view the ſame exactly, and if need were to open up the Body, and to conſider, whether there appeared any evidence of Wounds, Bruiſes or Strangling upon the Corps, beſides what might have happened by his falling or drowning in the water, *&c.* In Obedience thereto, we cauſed take up the ſaid Corps, and in preſence of *Philip Standsfield*, Mr. *Andrew Melvil* Miniſter of *Morum*, *James Hamilton* writer to the Signet, *James Row* and *Alexander Campbel* Merchands in *Edinburgh*, *Umphray Spurway*, *James Dick*, *James Mitchel*, and *John Robertſon* Indwellers in *New-milns*, and ſome others having with all poſſible exactneſs viewed the Corps; We obſerved the Face a little ſwelled and inclining to a dark reddiſh colour, ſome fulneſs of ſome capillarie Veins in the Pallat of the Mouth towards the Uvula, as alſo a large and conſpicuous ſwelling about three inches broad of a dark red or blae colour, from the one ſide of the Larinx round backwards to the other ſide thereof, we obſerved the Jugular Veins on both ſides the Neck very large and diſtended and full of Blood; There was a large ſwelling under and betwixt the Chin and the Cartilago *Scutiformis*, there was alſo a little ſcratch below the left Mandibula, which had rankled the Cuticula, and made ſome little Impreſſion on the Cutis, having made Inciſion from the Chin down along the Larinx, and croſs upon the ſwelling of the Neck: We found a greater laxneſs and diſtance (as we think) than ordinary betwixt the Cartilago *Scutiformis* and Os hyoides; we found the Tumour on the Neck, containing bruſed like dark or blackiſh Blood; the jugulars when cut, bled conſiderably, eſpecially that on the left-ſide.

Having opened his Breaſt, we found the Lungs diſtended to the filling up their Capacities, but free of water, his Stomach, Liver, *&c.* were all in good condition, we found no water within the corps, the Corps had no ſmell at all; The Breaſt Belly, Privy Parts, *&c.* were all well coloured, there was no ſwelling in his Belly, nor any thing by ordinary to be ſeen on his Head; This we atteſt and ſubſcribe with our Hands, *Sic ſubſcribitur.*

James Craufurd. James Murehead.

Edinburgh 6. December 1687.

IN preſence of the Lord Arch-Biſhop of Glaſgow, Lord Tarbat, Preſident of Seſſion, Advocat, and Caſtlehill.

James Murehead, and *James Craufurd* Chirurgions, being ſolemnly ſworn in the preſence of the Committee of Council, Depones that the written report anent the Body of the Deceiſt Sir *James Standsfield* is true, according to their Skill, and this is the truth, as they ſhall anſwer to God, *ſic ſubſcribitur*,

James Crawfurd James Murehead,
John Glaſgow, I. P. D. C.

Edinburgh 7 February 1688. in preſence of the Juſtices and Aſſiſers.

James Murehead, and *James Craufurd* Chirurgions: being ſolemnly

ſworn, Depone upon the truth, and verity, of the above-written declaration in all points; *ſic ſubſcribitur. James Crawfurd, James Murehead.*

Linlithgow.

Follows the Chirurgions of Edinburgh their opinion anent the ſaid Murder.

WE underſubſcrivers, Chirurgions in *Edinburgh*, having fully conſidered the Report made by *James Craufurd*, and *James Murehead*, concerning the condition of the Corps of Sir *James Standsfield*, and though it be not uſual to declare more than matter of Fact, yet in obedience to your Lordſhips commands, where ye deſire to be informed, if theſe Symptoms, found upon the Body, do import, Drowning, or Strangling. We humbly offer our opinion, ſo far as our Art or experience will allow. And whereas the report informs us, that there was found a ſwelling, and preter-natural redneſs in the Face, a large and conſpicuous Tumour, about three inches broad, of a dark red, or black colour, from the one ſide of the Larinx, round back-wards to the other ſide thereof, a large ſwelling, betwixt the Chin, and the Cartilago ſcutiformis, the Jugular Veines, on both ſides very large, and diſtended, and when Inciſion was made down-wards, betwixt the Os hyoid and Larinx was obſerved a laxnes, and diſtance betwixt the Os hyoid and the Cartilago ſcutiformis, Inciſion being made croſs alongſt the Tumor, it was found full of bruiſed Blood; The Jugulars likewayes when opened yielding a conſiderable quantity of blood, eſpecially on the left ſide, no Smel, or corruption appearing in any part of the Body. It is very probable theſe parts have ſuffered ſome external violence, which hath made them appear ſo far different from their natural figure and colour, and could not be cauſed by Drowning ſimply. As to the other part of the report, the Breaſt, and Belly, being opened, the Lungs found diſtended the Bronchi full of air, without any water, nor any water found in the Stomach, or Inteſtines, a Body when drowned, being generally found to have much water in it, with other circumſtances of the Report conſidered, Gives juſt ground to think he was not drowned. This we ſubſcribe at *Edinburgh* the 3 day of *February* 1688. *ſic ſubſcribitur.*

John Baillie Deacon, William Borthwick,
George Stirling, Thomas Edgar,
James Craufurd, James Murehead.

Follows the Report of the Colledge of Phyſicians.
Edinburgh 6 February 1688.

THE Colledge of Phyſicians, being aſſembled at the deſire of his *Majeſties Advocat*: To conſider a Report made by ſome Chirurgions, concerning the Body of the late Sir *James Standsfield*, and to give their opinion, whether by the ſaid Report, there is any juſt ground to believe, that the ſaid Sir *James Standsfield* was Strangled, or Drowned? And they having accordingly conſidered the ſaid Report, They are of opinion, ſuppoſing the verity of the ſaid Report or declaration, that there is ſufficient ground to believe, that the ſaid Sir *James Standsfield* was Strangled, and not Drowned, in teſtimony whereof thir Preſents are ſubſcribed by Sir *Andrew Balfowr* Preſident of the ſaid Colledge. *ſic ſubſcribitur*

A. Balfowr. P. C. R. M.

Umphray

Umphray Spurway Clothier at *New-milns*, aged 50 years, *ſ'utus*, Purged and ſworn; Depones upon the truth and verity of his own declaration given in by him, which is all written, and ſubſcribed with his own hand, and conſiſts of two leaves of paper, written on all ſides, which is truth, as he ſhall anſwer to God. *ſic ſubſcribitur* *Umphray Spurway.*

Follows the Declaration of Umphray Spurway Engliſh-man.

I *Umphray Spurway* of *New-milns*, Clothier, being ſummoned to appear before the Lords of his *Majeſties* Privy Council in *Edinburgh* the 6 of *December* 1687. To declare my knowledge of what I had ſeen, and heard, relating to the death of Sir *James Standsfield* of *New-milns*, Did then and there declare before the ſaids Lords, as hereafter followeth. And after declaring what I had to ſay, was commanded to committ to writing my ſaid Declaration, under my own hand, which I the aforeſaid *Umphray Spurway* do hereby humbly offer to the above-ſaid Lords of his *Majeſties* Council, ſubſcribing the ſame with my own hand.

About ſix weeks before the death of Sir *James Standsfield*, after night I went to pay my reſpects to Sir *James*, as I uſually did when he was at *Newmilns*, at which time I found him not ſo free for Diſcourſe, nor ſo pleaſant as at other times: In ſo much that I uſed that freedom with him, to *Quere* the reaſon why his Honour was ſo Melancholy? who with a great ſigh, wringing his hands together, with tears trickling down his Cheeks; ſaid, Mr *Spurway*, I have great cauſe for it; I have born my own burden, without complaining to others, but I have a very wicked Family, and it's very ſad that a man ſhould be deſtroyed by his own Bowels; But let me be never ſo ſparing in my expence, both at home and abroad, yet they at home of my Family conſume me; condeſcending on ſome particulars, of ſome extravagant ſums of money, monethly brought in to him, that his Family had expended, beſides what he allowed for them, which was very ſufficient: But that which grieved him moſt was, that his youngeſt Son, whom he had ſome Comfortable hopes of, and upon whom he had ſettled his Eſtate upon; His juſt Debts being firſt payed, and that to the knowledge of his Son; But now he was fruſtrated of his hopes of that his Son too: For his eldeſt Son had debauched his youngeſt Son, who had ſeveral times of late come in Drunk, as the other; This he declared to me with very great grief of heart: But the Saturdays night after Sir *James*, and a Miniſter one Mr. *Bell* came to *New-milns* from *Edinburgh*, I came in at the houſe of one *James Marr*, where I ſaw Sir *James*, and Mr. *Bell* ſitting by the fire, before he had been at his own houſe, which I wondred at, having never known the like done by him before; but ſince, I have had my thoughts, that he had a fear upon him, (good Gentleman) of going to his own houſe, but having ſat ſome time with him, he deſired Mr. *Marr* to ſend one of his People at his houſe, to know, if they had kindled a fire for him; And upon the return the Meſſenger gave this anſwer. May it pleaſe your Honour, your fire is kindled for you; upon which Sir *James*, and the Miniſter aroſe, and took their leave of Mr. *Marr*; And I alſo accompanyed Sir *James* and the *Miniſter* half the way toward his home, and ſo took my leave of him, wiſhing his Honour a good night: But the next morning being Sabbath-day after the light well appeared, one *Agnes Bruce* came at my Chamber

ſworn, Depone upon the truth, and verity, of the above-written declaration in all points; *ſic ſubſcribitur. James Crawjurd, James Murehead.*

Linlithgow.

Follows the Chirurgions of Edinburgh their opinion anent the ſaid Murder.

WE underſubſcrivers, Chirurgions in *Edinburgh*, having fully conſidered the Report made by *James Craufurd*, and *James Murehead*, concerning the condition of the Corps of Sir *James Standsfield*, and though it be not uſual to declare more than matter of Fact, yet in obedience to your Lordſhips commands, where ye deſire to be informed, if theſe Symptoms, found upon the Body, do import, Drowning, or Strangling. We humbly offer our opinion, ſo far as our Art or experience will allow. And whereas the report informs us, that there was found a ſwelling, and preter-natural redneſs in the Face, a large and conſpicuous Tumour, about three inches broad, of a dark red, or black colour, from the one ſide of the Larinx, round back-wards to the other ſide thereof, a large ſwelling, betwixt the Chin, and the Cartilago ſcutiformis, the Jugular Veines, on both ſides very large, and diſtended, and when Inciſion was made down-wards, betwixt the Os hyoid and Larinx was obſerved a laxnes, and diſtance betwixt the Os hyoid and the Cartilago ſcutiformis, Inciſion being made croſs alongſt the Tumor, it was found full of bruiſed Blood; The Jugulars likewayes when opened yielding a conſiderable quantity of blood, eſpecially on the left ſide, no Smel, or corruption appearing in any part of the Body. It is very probable theſe parts have ſuffered ſome external violence which hath made them appear ſo far different from their natural figure and colour, and could not be cauſed by Drowning ſimply. As to the other part of the report, the Breaſt, and Belly, being opened, the Lungs found diſtended the Bronchi full of air, without any water, nor any water found in the Stomach, or Inteſtines, a Body when drowned, being generally found to have much water in it, with other circumſtances of the Report conſidered, Gives juſt ground to think he was not drowned. This we ſubſcribe at *Edinburgh* the 3 day of *February* 1688. *ſic ſubſcribitur.*

John Baillie Deacon, William Borthwick,
George Stirling, Thomas Edgar,
James Craufurd, James Murehead.

Follows the Report of the Colledge of Phyſicians.
Edinburgh 6 February 168.

THE Colledge of Phyſicians, being aſſembled at the deſire of his *Majeſties Advocat*: To conſider a Report made by ſome Chirurgions, concerning the Body of the late Sir *James Standsfield*, and to give their opinion, whether by the ſaid Report, there is any juſt ground to believe, that the ſaid Sir *James Standsfield* was Strangled, or Drowned? And they having accordingly conſidered the ſaid Report. They are of opinion, ſuppoſing the verity of the ſaid Report or declaration, that there is ſufficient ground to believe, that the ſaid Sir *James Standsfield* was Strangled, and not Drowned, in teſtimony whereof thir Preſents are ſubſcribed by Sir *Andrew Balfowr* Preſident of the ſaid Colledge. *ſic ſubſcribitur*

A. Balfowr. P. C. R. M.

Unphray

R

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I *Umphray Spurway* of *New-milns*, Clothier, being ſummoned to appear before the Lords of his *Majeſties* Privy Council in *Edinburgh* the 6 of *December* 1687. To declare my knowledge of what I had ſeen, and heard, relating to the death of Sir *James Standsfield* of *New-milns*, Did then and there declare before the ſaids Lords, as hereafter followeth. And after declaring what I had to ſay, was commanded to committ to writing my ſaid Declaration, under my own hand, which I the aforeſaid *Umphray Spurway* do hereby humbly offer to the aboveſaid Lords of his *Majeſties* Council, ſubſcribing the ſame with my own hand.

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door & knocked. I went and opened the door, ſays ſhe, Sir, Sir *James* is gone out of his Lodgeing-roum this morning, and we have ſought all the Roums of the houſe for him, but cannot find him; ſhe goes off, I immediatly followed her, and when I came out of my door, I met with Maſter *Philip Standsfield*, and *James Dick*. Mr. *Standsfield* declares to me, Lord, Maſter *Spurway*, what ſhould be the cauſe of this man's diſcontent, that he ſhould thus leave his Lodgings, and walk out? To which I replyed, Sir, do you wonder the cauſe of his diſcontent, who never gave him content, but had been the cauſe of grieving him, from one to the other of them ever ſince I knew the Family; But he turned his back upon me, and made no reply at all; However I went at Sir *James*'s houſe, but could not procure the keys of neither of the Gardens, and I ſent abroad of Sir *James*'s ſervants, and of my own, ſome on horſe-back, and ſome on foot, to inquire after him; At laſt a ſervant of mine, one *Will Bowman* found him in the River, a little be-weſt the Town; I went at the place, and ſaw him lying about two yeards, or eight foot from the Brink of the River, lying upon his Belly, juſt at the top of the water, as it were floating, only his Coat, and weſtcoat looſe about him, and a ſhirt on him that I ſaw. I ſaw the place at the Brink of the River, where ſome one had ſtood all beaten to maſh with feet, and the ground very open and mellow, although a very hard froſty morning; So I gave order to ſome to get a Ladder, and to ſet the one end into the River, as near the hinder part of Sir *James* as they could, and the other end of the Ladder to fall at the top of the Brae, which was very ſteep, and ſo they might get him out eaſily; So I came away from the place, and deſired Mr *Marr* to ſee the Body landed, Declaring that I would go home, and write to Mr *George Hume* merchant in *Edinburgh* of the ſad ſight which I had ſeen, deſiring him to communicat the ſame to my Lord Advocat, with deſire to know by the Meſſenger his Lordſhips pleaſure, what of advice or direction he would be pleaſed to give concerning it, and it ſhould be followed; But the Meſſenger that I ſent, after he had delivered my Letter to Mr *Hume*, and Order given by Commiſſary Dalrymple, how to proceed further with the Body of Sir *James*, which order was directed to my ſelf by a letter, which when I read the letter, the contents was: That I ſhould endeavour to procure two or three diſcreet perſons of *New-milns* to my ſelf, and we together view the Body of Sir *Iames*; and if we found no grounds to believe that his Perſon had not been wronged by others, that then with all ſpeed he ſhould be Buried, and that as privatly, and with as little noiſe as could be; But this letter which was the Commiſſary's Order to me was ſent by the hand of one *Iames Mitchell* Kinſman to Sir *Iames*; For that horſe that the expreſs rode on to *Edinburgh* was taken out of the ſtable, where he was ſet up: And one Mr. *Patrick Smith* the Brother in Law of Sir *Iames Standsfield* mounted on him to come for *New-milns*; So that my expreſs was thereby diſabled, to bring me the anſwer of my letter; And the ſaid *Iames Mitchell* who brought my letter, came home at the place by nine of the Clock, that ſabbath-day at night, and gave an account of the letter that he had for me; But they diſwaded him from bringing it me. So that I had it not till three hours after Sir *Iames* was buried. But upon Munday morning, I aroſe about three or four of the Clock; And coming out of my houſe, I ſaw great lights at Sir *Iames*'s Gate, which occaſioned my going

down

down, to see what the matter was; And as I went, I met with one *Will. Robison*, coming up of home, *I* asked what the meaning was of these lights, and of the horses that *I* then saw at Sir *Iames*'s Gate? who answered me that Sir I*ames*'s Corps were brought out at the Gate, and that they were carrying it at *Morum* to be buried, having received orders from my Lord Advocat for that purpose; At which I returned to my house, thinking it very strange thus to proceed without having had the Corps viewed by some Person, as I well knew was customary in *England* in such cases. The next step to my remembrance was, that upon the Tuesday night following, after I was in bed, One Mr. *Alexander Campbell* in *Edinburgh*, with one Mr. *James Row*, and an Gentleman one Mr. *Hamilton*, with two Chirurgions, came at my house, and caused me to rise out of my Bed, showing me an order, which they had from my Lord Advocat, for the taking up again the body of Sir *James Standsfield*; and commanded me to make ready to go with them, and having seen the order, readily submitted thereunto, and when coming upon the place at *Morum*, caused the said grave to be opened, and the Coffin taken up. It was carried into the Church and there opened; And as soon as Sir *James*'s grave-cloaths were taken off him, and all his upper parts uncovered home to his privy parts, me thought his face look'd not as I expected, nor as others had insinuated, that were at the dressing of him at first; For they said that his Body & Face was very fair and fresh, but I found his face at first view of another complexion, being blackish with some strakes of red-like standing, or rather strangled blood, and under his left ear I saw a swelling home to his throat of a blackish red colour; After this I saw the Chirurgions opening his Body, beginning at the top of his chin, and so down to the pit of his stomach, and then cut his Skin on both sides his throat towards each ear, and coming at the place near his left ear, that I saw swoln, I there saw of corroded or congeal'd blood, lying in a lump of a great thickness, and two or three inches long, which proved to me he had been strangled; And one thing more I observed, that when Mr. *Murehead* put off his Cap at first from his head in slipping it back, Sir *James*'s eye-lids opened, and his eyes appeared, but his eye-lids much swoln, and very red, which did also prove to me a symptom of strangling.

This being done and his breast opened, so that his intrals appeared, and to me seemed in good order, and no appearance of water in his body, neither then, nor when first he was taken out of the river, the like I think, has not been ever known by any man that cast himself, or that has been cast into a river alive, and not to have his body full of water, nor that ever a dead man should ly at the top of the water, where no running stream is, but a still water of about 5 foot deep; But to me in this it showes, that as God is a Wonder-working God, so he has in this showen no less, to convince men, that this worthy Gentleman murdered not himself, but was murdered.

But my last Observation was of a wonder more, that the Lord did show, when the Chirurgions had caused the Body of Sir *James* to be by their Servants sewen up again, and his Grave-cloathes put on: A Speech was made to this Purpose; It is requisit now, that those of Sir *James Standsfield's* Relations and neareſt Friends should take him off from the place where now he lyes, and lift him into his Coffin; So I

ſaw Mr. *James Row* at the left-ſide of Sir *James*'s Head and Shoulder, and Mr. *Philip Standsfield* at the right-ſide of his Head and Shoulder, and going to lift off the Body, I ſaw Mr. *Philip* drop the Head of his Father upon the Furm, and much Blood in his Hand, and himſelf flying off from the Body, crying, *Lord, have mercy upon me*, or upon us, wipeing off the Blood on his Cloaths, and ſo lay himſelf over a Seat in the Church, ſome ſuppoſing that he would ſwarff or ſwoun away, called for a Bottle of water for him; After this we went for *Morum* Caſtle, where Mr. *Philip Standsfield*, my ſelf and ſeveral others ſtayed until it was day; In which time I challenged Mr. *Philip* for his unkindneſs to me, by his not inviting me to accompany the Corps of his Father, when firſt buried, knowing the Intimacy that there was betwixt his Father and my ſelf; And that of all the People in or about the Town, his Father delighted in no ones company as in mine, and that he did not give me notice of his Burial, that I might do my laſt Office of Love and Service to him, by accompanying his Body to his Burial-place, I took it very ill from him; So then Mr. *Philip* ſwore that he had ſent two of his Servants to invite me, but if thoſe damn'd rogues would not do it, what could he help it; and yet did declare, as is proved, and as himſelf ſince confeſt before my Lord Advocat, that he would not invite me, aſſigning this as his Reaſon, ſuppoſing that my ſelf and *James Marr* had been Inſtruments of ſetting his Father againſt him, which was a falſe ſuggeſtion: All which particulars I have before the Lords of His *Majeſties* Honourable Privy Councel declared: So by their Command I have in this ſheet of Paper written it over with my own Hand, and do hereby ſubſcribe my Name, the ſixth of *December*, 1687. *Sic ſubſcribitur.*

per me, Umphray Spurway.

Edinburgh, the 7*th* of *February*, 1688.

In preſence of the Juſtices and Aſſiſers, *Umphray Spurway* ownes his Declaration above-written to be Truth in all poynts; As he ſhal anſwer to God, *Sic ſubſcribitur. Umphray Spurway.*

Linlithgow.

Iames Mitchel Nephew to the deceaſt Sir *James Standsfield*, aged 20 years, unmarried, purged and ſworn; Depones that about twentie dayes before Sir *James Standsfield's* Death being in company with *Philip* the Pannal, he heard the Pannal ſay, that if his Father did diſpone his Eſtate by him, he would kill him, though he ſhould die in the *Graſs-mercat* for it; Depones that ſeveral times about a moneth before Sir *James*'s Death, he heard the Pannal ſay, that little thought the People had how ſoon the Pannal would be Laird, and when he was, he would then ride in their skirts that had been ill to him. And this is the Truth as he ſhall anſwer to God, *Sic ſubſcribitur.*

James Mitchel.

Iohn Topping in *Monkrig*, aged 25 years, married, purged and ſworn; Depones that upon the Sabbath-morning after Sir *James Standsfield's* Death, the Deponent coming from *Monkrig* to *New-milns*, by the ſide of

of the water, he discovered a Body floating, and saw *Philip Standsfield* looking to that place of the water where the Body was, and the Deponent asked the Pannal, whose Body that was in the water? And the Pannal made no answer; and when he came to *New-milns*, he heard that Sir *James*'s Body was found in the water; Depones he saw the Body taken out of the water, and went alongst with it, near to the Walk-miln, but observed no water come from the Body. This is the Truth as he shal answer to God. Depones he cannot write. *Sic subscribitur.*

Linlithgow.

James Dick in *New-milns*, aged fourty seven years, married, purged and sworn; Depones that the Pannal *Philip Standsfield* and the Deponent being at *Morum* after taking up of the Corps, and discoursing about the finding of the Body in the water, the Deponent said to the Pannal, that he saw something in the water, when they were searching after Sir *James*, but he did not suppose it to be Sir *James*'s Body, and the Pannal said, I saw him before any of you: Depones that he saw the Body after it was taken out of the water at the Brink of the Brae, and went alongst with the Body a piece of the way, and observed no water come from the Mouth. And this is the Truth as he shal answer to God. *Sic subscribitur.*

James Dick.

His *Majesties* Advocat desired that *James Thomson* son to *George Thomson* in *New-milns*, and *Anna Mark* Daughter to *Janet Johnstoun*, Spouse to the said *James Thomson*, might be examined as Witnesses against the Pannal, for proving his Accession to his Fathers Murder. And the Procurators for the Pannal having alledged, that the foresaids Persons were but children, and so not by Law capable to be Witnesses, the Boy not being above thirteen years of Age, and the Girle not above ten years.

The Lords, Justice General, and Commissioners of Justiciary, refused to receive them as Witnesses, but in regard the Persons on the Inquest earnestlie desired the said *James Thomson* and *Anna Mark* might be examined, anent their knowledge of the Pannal's Accession to the forsaid Murder, they allowed the forenamed persons their Declarations to be taken for clearing of the Assise. And accordingly the said *James Thomson* being examined in presence of the Justices and Inquest, declared as after followes; that *Janet Johnstoun* came to *George Thomsons* house betwixt nine and ten at night, and *Philip Standsfield* the Pannal came there shortly thereafter, and the House being dark, the said *Philip* gave the Declarant a turnor to buy a Candle, which he did in the neighbouring house, and after the Declarant returned with the Candle, his Mother ordered him to go to his Bed, which was in the same Roum, and beat him because he did not presently obey. Declares he heard one come to the Door, and inquire for *Janet Johnstoun*, and desire her to come home, and give her Child suck: Declares he knew by the voice that the Person who came was *Agnes Mark* the said *Janets* daughter, and that *Janet* ordered her to go away, and she should follow her; Declares she stayed a considerable time thereafter, and the said

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Thomſons wife was deſired to go for a pint of Ale, and *Philip* took out an handful of Money to ſee if he had any ſmal Money, and finding he had none, the Ale was taken on upon truſt; Furder Declares that the ſaid *George Thomſon* and his Wife, and *Janet Johnſtoun* did ſtay together, and whiſper ſoftly a conſiderable time; Declares he heard *Philip Standsfield* complain that his Father would not give him Money, and pray the Devil take his Father, and God damn his own Soul if he ſhould not make an end of his Father, and then all would be his, and then he would be kind to them; Declares *Philip Standsfield* and *Janet Johnſtoun* went away about eleven, and ſhortly after his Father and Mother came to the bed where the Declarant was lying croſſe the Bed-foot; and the Declarant in the night time perceived his Father and Mother riſing out of the Bed, and going out of the houſe, and that they ſtayed a conſiderable time away, about an hour and an half, or two hours, and that the Declarant was perfectly awake, when they went and were away, and he wondred what they were going about; Declares his Mother came in firſt, and came ſoftly to Bed, and within ſome time after his Father came in, and put a ſtool to the back of the door, without locking it, for the lock made alwayes a great noiſe when they locked the door, and the Declarants Father called to him whenever he came in, but the Declarant made no anſwer, that it might be thought he was ſleeping, and his Mother asked, what had ſtayed his Father; and thereupon his Father and Mother did fall a diſcourſing of ſeveral things, and particularly his Father ſaid, that the Deed was done, and that *Philip Standsfield* guarded the Chamber-door, with a drawen Sword and a bendet Piſtol, and that he never thought a man would have died ſo ſoon, and that they carried him out towards the water-ſide, and they tyed a ſtone about his Neck, and leaving him there came back to the little kiln, and reckoned whether they ſhould caſt him in the water with the ſtone about his Neck or not, and whether they ſhould caſt him far in or near the ſide, and at length they returned and took away the ſtone from about his Neck, and threw him in the water; Declares his Father ſaid, that yet he was afraid for all that, that the Murder would come out, and his Mother anſwered, hout fool there is no fear of that, it will be thought he has drowned himſelf, becauſe he will be found in the water; Declares when Sir *James* was miſſed in the morning, the Declarants Mother ſaid to his Father, riſe quickly, for if ye be found in your Bed, they will ſay that ye have a hand in the Murder; Declares the Coat and Waſtecoat which were upon Sir *James*, when he was found in the water, were ſent to *Thomſons* houſe, and *Thomſons* Wife ſaid to her Husband and *Janet Johnſtoun* in preſence of the Declarant, that ſhe was affrighted to ſee the ſaid Coat and Waſtecoat, for ſhe thought that ſome evil ſpirit was in it, and deſired her Husband to ſend it away, which he would not; And further that his Mother ſaid to her Husband in the Declarants hearing, that ſhe was affrighted to be in the houſe alone after night fell, and accordingly when ever her Husband went out, ſhe went out with him, which was not her ordinary; Declares the ſaid *George Thomſon* did go in to *Edinburgh* ſeveral dayes before the Declarants Mother was brought in, and ſhe did immediatly after he came in to *Edinburgh* ſend away Sir *James*'s Coat and Waſtecoat, and that ſhe was never in her

her own houſe after night, ſince her Husband came in, but did lie in *Janet Johnſtouns* houſe, *Sic ſubſcribitur*. *Linlithgow. I. P. D.*

Anna Mark daughter to *Janet Johnſtoun* declares that on the ſaid Saturdays night *Philip* came up to her mothers houſe, and ſent her for *George Thomſon* and his wife, and thereafter he ſent her to ſee if Sir *James* was come home; declares that ſhe ſaw *Philip* with his hat off give a low ſalutation to *George Thomſon* when he came up to him, and when ſhe returned and told that Sir *James* was come, *Philip* did take a drink, and runs down to *New-milns*, that about eleven a Clock that night, her good-father ſent her to ſeek her mother, and that ſhe found her mother with *Philip* in *George Thomſons houſe*, and that her mother bad her go home, and ſhe would come after her, and that her good-father thereafter finding her mother did not come, ſent her for *Margaret Iſles* to give ſuck to the Child, and went home again; but that her mother did not come long after that, as ſhe thinks about two in the morning, and that ſhe heard her good-father ſay, Bitch & Whore, where have ye been ſo long? And ſhe anſwered, wherever I have been, the deed is done, and then went to bed, and that after that, ſhe heard them ſpeak together, but could not know what they ſaid: ſhe declares alſo, that her mother ſaid, ſhe was ſtill feared, and would not bide alone, nor ly alone in the bed; but ſaid, ſhe was afraid.

Edinburgh, February 7th 1688. The ſaid *Anna Mark* being Examined in preſence of the Aſſiſe, and Juſtices, declares *affirmativè*, conform to the above-written Declaration in all points. *Sic Subſcribitur*

Linlithgow I. P. D.

Sir *George Mckenzie's* Speech to the Inqueſt

Gentlemen of the Inqueſt

I am glad to ſee ſo ſtrong, and univerſal a propenſity for Juſtice in my native Countrey, that every man upon firſt hearing this Death concluded it a murder, and trembled leaſt it ſhould not have been diſcovered; every man became Sollicitor in it, wiſhed to be of the Inqueſt, and ardent Prayers were generally put up to Almighty God for this end, with as much earneſtneſs as uſes to be for removing general Plagues: And the Almighty in return of thoſe, did firſt make ſo clear Impreſſions on all mens Spirits of *Philip*'s being the Murderer, that he had fall'n by theſe; but his Divine Majeſty, who loves to ſee juſt things done in a legal way, furniſhed thereafter a full probation in an extraordinary manner, whereby we might not only convince our ſelves, but all ſuch as are not wicked enough to have been the Authors. You will diſcern the Finger of God in all the ſteps of this Probation, as evidently as *Philip*'s Guilt; and this extraordinary diſcovery has been made, as well to convince this wicked age, that the World is govern'd by Divine Providence, as that he is guilty of this Murder. He is accuſed before you for three Crimes, *Treaſon*, the *curſing of his Father*, and *the murdering him*; Crimes in great Affinity, and naturally ſubſervient to one another; for to pray confuſion to the King, who is *Pater patriæ*, is a curſing of our great Parent; And what can prove better a deſign to murder his Pa-

rent than the malitious hatred that prevails over a Son to curſe him? What reſtrains vitious men from murdering thoſe, by whoſe Death they may expect licentious Liberty, and an opulent Succeſſion, ſave the fear of the Lawes of the Land, or at leaſt an innate awe of the Law of nature? But here you ſee in the Treaſon a contempt of the Laws of the Land, and in the Curſing an abhorrence of the Laws of nature.

There is no Reaſon to ſuſpect our Zeal in this caſe from any ſtate deſign; For we took pains to ſhun a probation of the Treaſon: It was forced upon us, and not ſought by us, ſo violent were and are we in the ſearch of the Murder, that even Treaſon was not able to divert us. Nor preſs I it at this time: But to let you ſee there is nothing ſo wicked or dangerous, which this Pannal durſt not attempt. He not only wiſhes the King's confuſion, but drinks it openly; and not only drinks the King's confuſion himſelf, but he forces others to do ſo; nor needed he be drunk, to be guilty, for this was the firſt ſtep of his drinking; and to convince you that he knew it was a Crime, it is proved that he took his complices ſworn, never to detect it, the fatal encouragement which always tempt him to commit his villanies. The curſing his Father is not from meer humor or diſſolutneſs, but it becomes yet probable by a previous deſign to have his Eſtate, and from the reſtraint he found from him of being debarred from the raviſhing hopes of a boundleſs Liberty; The Expreſſions are various and execrable, ſuch as, Devil take him, drown him, rive him, let him never come back, let him never eat more, *&c.* and theſe Expreſſions, which ſhould never have been once ſpoke, were frequently repeited, and are prov'd, not by ſuſpect perſons, or ſtrangers, but by his Fathers and his own ſervants, and ſuch of them too as were *Plump*'s own favourits, and who think themſelves very unhappy in being obliged to depone againſt him.

You are then, *Gentlemen*, in the third place to judge, how far this Murder and Paricide are prov'd, in which you need to be the leſs ſcrupulous, that the Son, who is accuſed of it, is to die however; for either of the two former Crimes are ſo far prov'd beyond all doubt, that though he ſhould eſcape this, he cannot theſe. And as to the probation of this Crime, I muſt firſt repreſent to you, that in occult or atrocious Crimes, the Law has relaxed and remitted much of its ſcrupulouſneſs in probation, becauſe in theſe the ordinary probation cannot be had, and to admit none but ſuch were to reject all; And therefore in *Hame*ſucken, which is the beating a man in his own houſe, but much more the murdering a man by way of Hamſucken in his own houſe, wherein all means are uſed to cover, and few can be got for diſcovering; you muſt not expect two witneſſes who ſaw the Murder committed, but only ſuch probation as can before God convince you, that this Murder was committed by that man; no Inqueſt ever failed to find the Murder of Children to be clearly prov'd, though there were no witneſſes that ſaw it committe d, & the murdering Parents is a more atrocious Crime, becauſe we owe more duty to our *P*arents than any *P*arent does to a Child, and never Son ow'd more than this did, nor can be more believ'd to have killed a Parent. For clearing whereof you are to conſider firſt, that he did not drown himſelf, as was pretended, but was murdered by ſome perſons; And as the Law violent-

ly

ly presumes, that no man would Murder himself, so without the help of this presumption it is prov'd most convincingly by ocular inspection, that he was strangled; the marks of strangling *viz.* the congeal'd blood, the dislocation of one of the vertebræ in his neck &c. : being visible signs prov'd in the ordinary way, and we have added to this the opinion both of the Chirurgions and Physicians, who at once declare, that he was not drown'd, and that he was strangled; The outward marks likwise of his not being drown'd appearing as visibly as that he was strangled, so you must conclude that he was strangled, except you can think, that after he had strangled himself and broke his own neck he drown'd himself.

In the next place who could have murdered this Innocent and obliging Gentleman, except some Person who had access to his house, wherein he was murdered, and had malice against himself. And these two can meet in no person, but this unnatural barbarous Son; for one of the things that hightens his guilt is, that he should abhorre a Father, who engaged meer strangers to love him as a friend; And we have prov'd, that he not only hated his Father, and that he had done so for many years, but that he vowed he would take away his life before Christmas next, and that in many various, but clear expressions, and at many several times; for sometimes he swore, if he made a disposition to his second Son, he should take his life, sometimes that he should be master of all before Christmas, and he should use the servants as they used him; That though his mother was like to die, that his Father should die before her; And he scarce ever spoke of his Father without swearing he would strike a Sword to his heart, nor would his passion so much as suffer him to dissemble this even to his mother; And he who durst own it to her, durst certainly do it when ever he had occasion.

I proceed now to clear to you, that I have prov'd, that he not only design'd and vow'd in passion, that he would Murder his Father, but that he actually attempted to Murder him, and for this I have Led these witnesses who prove, that when his Father came from the Leaden-mines, he fled in to *Culter*, as a trembling Partridge pursued by a Haulk, telling some Gentlemen that he had been pursued seven miles by his unnatural Son, who accordingly came to the house, and shot several Pistols in at the windows, whereupon the Gentlemen, who now Depone, were forc'd to watch with his Father all the night, and were forc'd to convoy him the next day near to *Edinburgh*. We have also produc'd other Gentlemen, to whom his Father declared, that he attempted against his life, and who will not believe the best of Fathers deponing against the worst of Sons: Nor could any thing have drawn this from the Father, save the terrifieing danger, to which he was hourly exposed. All the supream Courts of *Europe* have found the attempt to kill, sufficient to inferr Paricide, this is a higher degree of guilt than cursing, & yet that inferrs death; & to attempt to kill a Father is more villanous, than to kill a stranger, what shall be said then of frequent, and deliberate attempts? And thus you have this Son again prov'd guilty of death, and even of Paricide. That which hastned the perpetrating this crime was, that his Father wearied out with his villanies, was at last forc'd to dispone his estate to his second Son, and tho there be nothing more ridiculous than to ask, what reason the son had to kill his Father as he now does; for there can be no reason for so barbarous an action; yet this was a motive to him, and may be a proof to you; for so kind a Father, who had tryed all means and methods to re-

claim his licencious Son, had never proceeded to this, unleſs he had been driven to it by thoſe frequent attempts made by his Son upon his Life, in hopes to enjoy his Eſtate by the death that he was to give. To diſapoint which hopes his Father deſign'd to ſettle the eſtate on the ſecond Brother, after which Settlement he could gain nothing but the gallows by killing his Father. Whereupon he to prevent the delivery of the diſpoſition, did aſſociat to himſelf *Thomſon*, whom himſelf uſed to call the devils taylour, *Thomſons* wife & *Janet Johnſton*, who was his own concubine, and his Fathers known enemie, whom he could never have frequented, except upon ſo barbarous a deſign. *Thomſon* denyed that he was in the houſe for eight days before, and yet it is prov'd he was in Sir *James*'s houſe the night the Murder was committed; *Johnſton* deny'd alſo before the Council, that ſhe was out of her houſe after nine a Clock that night, and yet it is prov'd that ſhe ſtay'd abroad till after twelve, ſo that her husband was forc'd to ſend for a ſtranger, to give ſuck to her Infant. Why did they both deny, or ſhe abandon her Child, at ſo ſuſpect a time? And it is ridiculous to pretend as they do, that they forgot ſo extraordinary a circumſtance in ſo extraordinary a night, eſpecially being examined upon it, within two or three days thereafter. By their aſſiſtance the Murder was deſign'd to be upon Saturday, the day of *January*; But God to diſcover and revenge a Murder (which he thought fit to ſuffer to be committed for the puniſhment of ſo many preceeding horrid Crimes) inſpired Sir *James* to bring with him that night, a devout Miniſter, for preparing the Father, and proving againſt the Son; And this pious and grave man, whoſe merit may be laid in ballance with many witneſſes, Depones, that he heard that night, the noiſe of many people within the houſe, which was inconſiſtent with Sir *James*'s drowning himſelf without it: And Depones, that his attention followed this noiſe until it died out towards the River, into which he was thrown by them; And the Brink is prov'd to have been broken, and beat by many feet, which fortifies much this depoſition. It is alſo prov'd, that he refuſed that night to come to publick prayer with his Father, ſwearing that he could not look upon him, and that the next morning, when all went to find out his Father, he confeſſed he had firſt found him; But that he came away, without diſcovering that he had found him, nor did he ſhew the leaſt grief when he was found by others; whereas if Nature had not been quit devour'd by Vice and guilt, he had certainly thrown himſelf upon his dead Father, and had lamented that fatal death, which no man, except he, ſaw with dry eyes; but whilſt others were mourning for his Father, this Miſcreant would not ſuffer him to be carried in to his own houſe, Saying, that he died like a dog, O Criminal moderation that never appeared in this paſſionat creature ſave upon the death of his Father. O Curſed juſtice never ſhowen or pretended to ſave in aſſerting, that his Father deſerved no reſpect, becauſe he drown'd himſelf. Upon this villanous pretext, he cauſed throw him into a remot houſe, where none were allowed to ſee the body, ſave his own accomplices, to prevent all diſcovery by inſpection of it, and for the ſame reaſon cauſed bury him very ſuddenly, in ſpight of a countermand from his freinds at *Edinburgh*. But they fully perſwaded, that Sir *James* was murdered by his own Son, ſent out ſome Chirurgions and freinds, who having raiſed the body, did ſee it bleed miraculouſly upon his touching it. In which God Almighty himſelf was pleaſed to bear a ſhare in the teſtimonies which we produce, that Divine power, which makes the blood circulat during life, has

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oft-times in all nations opened a passage to it after death upon such occasi-ons; But most in this case, for after all the Wounds had been sewed up, and the body design'dly shaken up and down, and which is most wonderfull after the body had been buried for several days, which naturally occasions the blood to congeal; upon *Philip*'s touching it the Blood darted and sprung out, to the great astonishment of the Chirurgions themselves, who were desired to watch this event, whereupon *Philip* astonished more than they, threw down the body, crying, O God, O God, and cleansing his hand grew so faint, that they were forc'd to give him a cordial. But least any shadow of difficulty might remain with you, his Divine providence, which oft-times reveals it self by the mouths of Babes and sucklings, has brought us two little witnesses, whom as no body could be so unworthy as to corrupt, so none can be such Infidels as not to believe, especially since they Depone against their own Parents, and have owned firmly in their presence, what they now depone in yours; From them ye have an account, how *Philip* that night came in to the house of their Parents, and there swore, *he would be ridd of his Father that very night*, how they went out at midnight, and after their return made their reflections, how easily Sir *James* had died, and how briskly *Philip* had behaved, by guarding of the door with a Pistol in his one hand, and a Sword in the other, how they had hung a stone about his neck, but had thereafter taken it away, and how the mother durst not stay in her own house, while Sir *James*'s coat was there, and if you had seen this little Boy upon his knees, begging his father to confess with so much affection, so much judgement, so much piety, you had needed no other probation, but himself; The Father himself before his death was convinced, and frequently foretold, that his Son would kill him, and the Mother how soon she heard of her Husband's death, and some of the circumstances, now insisted upon, and remembered what she had heard her Son say to her self, and what he had said at *Nunland*, concluded he was the murderer, in spight even of that Criminal kindness which she had for him, almost the whole Nation was convinced of this before any probation was led; And the Lords of the Privy Council, among whom many of our Judges sit, did declare, that they thought that half of the probation which was led before them, sufficient to convince an Inquest. How then should the least scruple remain with you, before whom so full, so clear, & so Legal a probation has been led, that like a Pend, every part of it supports another; & like a Chain, every link draws on another.

I need not fortifie so pregnant a probation, by laying out before you, how often he and his complices have contradicted one another, & even how often he has contradicted himself, in the most obvious and material points, and how he denyes every thing with oaths and with equal confidence, though never so clearly prov'd; Albeit such as these are the chief things that make up the probation in other cases, nor how he suffered the greatest indignities imaginable from his complices, in presence of the Privy Council, though this convinced many of their Lordships, that he was at the mercy of those complices, who were too far upon his secrets not to be slavishlie submitted to: But I cannot omit, how that since he came in to Prison, he has lived so impiously, and atheistically, as shews, that he had no awe upon his Spirit, to restrain him from commiting any Crime from a love to God, or a fear to hell, and that he constantly filled and kept himself drunk from morning till night, thereby to drown the voice of

his conſcience, and to make himſelf inſenſible of the terrors of the Almighty.

The Judges have declared what was neceſſary to be prov'd, and you are only to Judge, if we have prov'd what they thought neceſſary; and therefore there is no place to doubt, if a mans life may be taken away upon meer preſumptions; For the Judges have eaſed you of that ſcruple, by finding the grounds in this qualified Libel relevant; and his own Advocats have acknowledged this probation to be ſo ſtrong & unanſwerable, that before the half of it was led, they went away and deſerted a Client, whom they found they could not defend, nor ſhould any man doubt of a probation, which ones own Advocats think invincible. If then ſuch amongſt you as are Fathers, would not wiſh to be murdered by your own Children, or ſuch of you as are Sons, would not wiſh the World to believe that you are weary of your Fathers; You will all concur, to find this Miſcreant guilty of a Crime that God has taken ſo much pains to detect, and all mankind has ſuch reaſon to wiſh to be puniſhed. May then the Almighty God who form'd your hearts, convince them, and may this poor Nation cite you as the remarkable curbers of vice, to all ſucceeding ages.

Thereafter His *Majeſties* Advocat proteſted for an Aſſiſe of Error againſt the Inqueſt, in caſe they ſhould aſſoilzie the Pannal.

The perſons who paſt upon the Aſſiſe of *Philip Standsfield*, returned their Verdict in preſence of the ſaids Lords, whereof the Tenor follows.

The whole Aſſiſe called upon the Jury of *Philip Standsfield*, upon the three Points following, particularly lybel'd againſt him, to wit, the Crime of Treaſon, the curſing of his Father, and acceſſion to his Father's Murder, they unanimouſly in one voice by the Mouth of *William Baillie* of *Lamingtoun* their Chancelor, finds the Pannal guilty of the foreſaid three Crimes. *Sic ſubſcribitur. William Baillie* of *Lamingtoun* Chancelor.

THe Lords, Juſtice General, and Commiſſioners of Juſticiary, having conſidered the Verdict of the Aſſiſe returned againſt *Philip Standsfield*, they by the Mouth of *John Leſlie* Dempſter of Court, decerned and adjudged the ſaid *Philip Standsfield* to be taken upon *Wedneſday* next, being the fifteenth of *February* inſtant, to the Mercat-croſs of *Edinburgh*, and there betwixt two and four a cloak in the afternoon to be hanged on a Gibbet till he be dead, and his Tongue to be cut out, and burnt upon a ſcaffold, and his Right hand to be cut off, and affixt on the Eaſt-Port of *Haddingtoun*, and his Body to be carried to the *Gallowlie* betwixt *Leith* and *Edinburgh*, and there to be hanged up in Chains, and ordains his Name, Fame, Memory, and Honours to be extinct, his Arms to be riven forth, and delet out of the Books of Arms, ſwa that his Poſterity may never have place, nor be able hereafter to bruik or joyſe any Honours, Offices, Titles or Dignities within this Realm in time coming, and to have forfaulted, amitted and tint all and ſundry his Lands, Heretages, Titles, Offices, Tacks, Steidings, Roums, Poſſeſſions, Goods and Gear whatſomever pertaining to him, to our Soveraign Lord, to remain perpetuallie with his Highneſs in Property; which was pronounced for Doom, whereupon His *Majeſties* Advocat asked, and took Inſtruments. *Sic ſubſcribitur, Linlithgow.*

Jo. Lockhart, David Balfour, Roger Hoge, P. Hay.

Extracted forth of the Books of Adjournal, by me Mr. *Thomas Gordon* Clerk to the Juſtice Court, *Sic ſubſcribitur, Tho. Gordon.*

Which Doom and Sentence above-written, was accordingly put to due execution upon the perſon of the ſaid *Philip Standsfield*, in manner above-preſcribed.

FINIS.